Supreme Court, U.S.
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No.

# In the Supreme Court of the United States

**A BERNHARDT,**
*Petitioner,*
**v.**

**SANTA MONICA COLLEGE ET AL, & COUNTY OF LOS ANGELES ET AL.**
*Respondents.*

On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Ninth Circuit

## PETITION FOR A WRIT OF CERTIORARI VOLUME II (CONTINUATION OF APPENDIX)

Angela Bernhardt
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Los Angeles 90048
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*Petitioner – In Pro -Per*

17898

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## APPENDIX F FOR PETITION FOR A WRIT OF CERTIORARI

Angela Bernhardt
PO Box 480509
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*Petitioner – In Pro -Per*

**APPENDIX F**

**RECEIVED 6TH JULY 1999**
**DOCUMENT NOTICE OF DOCUMENT DISCREPANCIES**
**FIRST AMENDED COMPLAINT**

**DOCUMENT ENTITLED 1ST AMENDED COMPLAINT**

**To US DISTRICT JUDGE LETTS**
**FROM DEPUTY CLERK RECEIVED DATE 7.6.99**
UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA
CASE NO CV-99-2598-JSL

CASE TITLE BERNHARDT VS SANTA MONICA COLLEGE ET AL

Upon the submission of the attached document(s), it was noted that the following discrepancies exist:

OTHER: **ORDERS BY JUDGE LETTS DATED 6.29.99 INDICATE PLAINTIFF CANNOT FILE FIRST AMENDED COMPLAINT**.

**PLAINTIFF INSISTED ON SUBMITTING DOCUMENTS.**
CV-104A (4/98)

District Court Docket - Just Before 40
Ninth Circuit Excerpt Of Record Volume 2 Page 165.

**APPENDIX F**

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**FIRST AMENDED COMPLAINT**

**FILED JULY 6TH 1999**

Angela Bernhardt
P.O.Box 480509 Los Angeles, CA 90048
Phone (310) 281 3092 Plaintiff In Pro-Per

THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

ANGELA BERNHARDT Plaintiff vs SANTA MONICA COLLEGE , a public entity, SANTA MONICA COLLEGE COMMUNITY DISTRICT, a public entity. SANTA MONICA COLLEGE BOARD OF TRUSTEES, a public entity.SANTA MONICA COLLEGE POLICE DEPT., a public entity. R.L.JONES, in his individual and official capacity. RON MARABLE in his individual and official capacity. EILEEN MILLER, in her individual and official capacity. PIEDAD ROBERTSON, in her individual and official capacity. ROBERT SAMMIS, in his individual and official capacity. JO ANN R FIELDER in her individual and official capacity. BRENDA SIMMONS, in her individual and official capacity. HERB RONEY, in his individual and official capacity. DOROTHY EHRHART MORRISON, in her individual and official capacity. NANCY CATTELL, in her individual and official capacity. CAROL L CURRY, in her individual and official capacity. ILLONA JO KATZ, in her individual and official capacity. PATRICK NICHELSON, in his individual and official capacity ANNETTE SHAMEY, in her individual and official capacity, STATE OF CALIFORNIA, a public entity. COUNTY OF LOS ANGELES, a public entity.COUNTY OFLOS ANGELES SHERIFFS

DEPT.,a public entity, COUNTY OF LOS ANGELES SANTA MONICA MUNICIPAL COURT, a public entity. LAURENCE D. RUBIN, in his individual & official capacity. 1-10 CAUCASIAN MALE SHERIFF DEPUTY DOES & 1-2 AFRICAN AMERICAN FEMALE SHERIFF DEPUTY DOES, OF JUDGE LAURENCE D. RUBIN'S COURT ROOM R & COUNTY OF LOS ANGELES SHERIFF'S DEPT in their individual & official capacities. LA COUNTY SHERIFF LEE BACA in his individual & official capacity. SHERIFF SHERMAN MOTEN, SHERIFF TERRY JANUARY in their individual & official capacities. OFFUNE OBIAMIWE in her individual capacity, SHERIFF DEPUTY DOES 1—50 in Individual and official capacity, and DOES 1 through 100. Defendants

CASE NO CV–99-2598-JSL

1ST AMENDED COMPLAINT FOR DAMAGES

1. RESTRAINED SEXUAL ASSAULT/SEXUAL HARASSMENT/BATTERY UNDER 42. U.S.C. 1983, 42 § USCA 13981 INTENTIONAL TORT, AND COMMON LAW;

2. RESTRAINED SEXUAL ASSAULT AND COVER UP OF SEXUAL ASSAULT VIOLATIONS UNDER TITLE IX OF THE EDUCATION AMENDMENTS OF 1972, AND," 20 U. S. C. §1681(a), 1687, AS AMENDED, 20 U. S. C. §1681 ET SEQ; TITLE VI OF THE CIVIL RIGHTS ACT OF 42 U.S. C § 2000 d ET SEQ, d-1, d-2, d-7;

3 VIOLATION OF CIVIL RIGHTS UNDER UNITED STATES CONSTITUTION 42 USCS §1983, 42 USCS § 1985 (2) (3), 42 USCS §1986, 42 USCS § 1988;

4. MUNICIPAL VIOLATION OF CIVIL RIGHTS;CONSPIRACY TO DEPRIVE PLAINTIFF OF A FAIR AND MEANINGFUL HEARING.

5 DEFAMATION OF CHARACTER;

**APPENDIX F**

**CASE NO CV-99-2598-JSL**

**1ST AMENDED COMPLAINT FOR DAMAGES**

6 INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS;
7 INTENTIONAL MISREPRESENTATION;
8 OBSTRUCTION OF JUSTICE;
9 NEGLIGENCE;
10 MALICIOUS ASSAULT AND BATTERY;
11. EXCESSIVE FORCE; VIOLATIONS UNDER 42 U.S.C. 1983, AND 42 U.S.C. 13981;
12 FALSE ARREST; UNLAWFUL SEARCH;
13 UNLAWFUL DETAINMENT;
14 ABUSE OF PROCESS;
15 SPOLIATION OF EVIDENCE;
16 HARASSMENT;
DEMAND FOR JURY TRIAL

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Plaintiff Angela Bernhardt's, (hereinafter referred "Plaintiff") complaint is against the following defendants:

1. R.L. Jones, Santa Monica College,

2. Santa Monica College Police Department, Police Officer Ron Marable, Eileen Miller.

3. Brenda Simmons, Joanne Fielder; Piedad Robertson, Robert Sammis, Santa Monica College

4. Santa Monica College Board Of Trustees - Herb Roney, Dorothy Ehrhart Morrison, Nancy Cattell, Carol L Currey, Illona Jo Katz, Patrick Nichelson, Annette Shamey. (Hereafter shortened to SMC Board Of Trustees et al)

5. Santa Monica College Community District,

6. County Of Los Angeles,

7. Laurence D. Rubin, Santa Monica Courthouse, County Of Los Angeles

8. Santa Monica Municipal Court, County Of Los Angeles

9. Offune Obiamiwe.

10. Sheriff's Department, County Of Los Angeles

11. 1- 10 unknown Caucasian male Sheriffs Deputy Bailiffs DOES, and 1-2 unknown African American female deputy DOES employed in/or around Judge Laurence Rubin's Courtroom R, County Of Los Angeles, Santa Monica Courthouse on October 6th, 1998.

12. 1-50 unknown Sheriffs deputy DOES employed by County Of Los Angeles Santa Monica Courthouse, and County Of Los Angeles Sheriffs Department .

13. Sheriff Sherman Moten,

14. Los Angeles County Sheriff Lee Baca,

15. Sheriff Deputy Bailiff Terry January (Regular daily Bailiff Of Judge Laurence Rubin's Courtroom R)

16. Unknown Named defendants from 1 – 100 DOES, inclusive.

17. State Of California

Plaintiff alleges as follows.



JURISDICTION AND VENUE

The jurisdiction of this Court is invoked under 28 U.S.C. Section §1331, §1337, §1343, § 1367, & under Title 42 U.S. Code Sections §1983, §1985,§1986, §1988, & under Title IX Of The Educational Amendments Of 1972," 20 U. S. C. §1681(a), 1687, 20 U. S. C. §1681 et seq, & under Title VI Of The Civil Rights Act Of 1964, 42 U.S. C § 2000 d, d-1, d-2, d-7 et seq, 42 § USCA 13981 and the United States Constitution. Plaintiff also invokes this Court's pendant jurisdiction., and common law, wherein

## APPENDIX F

Plaintiff seeks to redress deprivations by

1. State Of California, 2. County Of Los Angeles. 3. Laurence D. Rubin. 4. County Of Los Angeles-Santa Monica Municipal Courthouse. 5. Los Angeles County Sheriff's Department . 6. 1-10 unknown Caucasian male Sheriffs Deputy Bailiffs DOES, 1-2 unknown African American female Sheriffs Deputy Bailiffs DOES employed in Judge Laurence Rubin's Courtroom R, County Of Los Angeles, Santa Monica Courthouse on October 6th, 1998. 7. Los Angeles County Sheriff Lee Baca, 8. Sheriff Sherman Moten, 9. Sheriff Deputy Bailiff Terry January. 10. Santa Monica College Board Of Trustees – 11. Herb Roney, 12. Dorothy Ehrhart Morrison, 13. Nancy Cattell, 14. Carol L Currey, 15. Ilona Jo Katz, 16. Patrick Nichelson, 17. Annette Shamey. 18. Santa Monica College Community District, 19. Santa Monica College. 20. Piedad Robertson, 21. Brenda Simmons. 22. Joanne Fielder. 23. Robert Sammis. 24. Santa Monica College Police Department . 25. Eileen Miller. 26. Santa Monica Police Officer Ron Marable,. 27. R.L. Jones. 28. Offune Obiamiwe and 29. 100 unknown Named defendant DOES from 1 – 100, inclusive who are employees and/or agents and/or occupied other relationships with each of the other Named defendants, and at all times herein mentioned acted within the course and scope of said agency and/or employment and/or other relationship and each other defendant has ratified, consented to, and approved the acts of his agents, employees, and representatives and that each actively participated in aided and abetted or assisted one another in the commission of the wrongdoing alleged in this Complaint.

This court has supplemental jurisdiction over those claims asserted under state law by virtue of 28 U.S. Code Sections 1367.

**All claims herein are made now - with the claims presentation requirement of the California Tort Claim Act and California Government Code**

**§910-915.4. All defendants have not appeared in any court before, for any causes of action - apart from defendant Ron Marable who appeared for emotional injury due to obstruction of justice cause of action in Santa Monica County of Los Angeles Court on 6th, October, 1998.** And that case **was eventually closed when defendant Ron Marable eventually told the Court that Plaintiff had not met the California Government Code claim requirement, which the Court did not inform her about - beforehand.** But Plaintiff did submit the claim for this case CASE NO CV–99-2598-JSL, and no other case, and this case is a different case, which encompasses Defendant Ron Marable's violations against Plaintiff under 42 USC 1983, 42 USC 1985 (2) (3) Title IX, and tort law., that were not causes of action, and were also never properly litigated on October 6th, 1998, in view of no cross examination allowed.

**Res Judicata and collateral estoppel are not at issue as the case should not have been heard on October 6th, 1998 as Police Officer Ron Marable knew that Plaintiff had not met the Government Claim requirement, and it was bad faith on his part that he did not reveal this at the beginning of the hearing, and left it until thirty minutes into the hearing before he said that the (Government) Claim Requirement had not been met, and said, I quote, "And there's no claim" and that is why Judge Laurence Rubin closed the case.** Defendant Marable **did not reveal the government claim requirement had not been met at the beginning of the hearing because he along with Santa Monica College never wanted to give Plaintiff a chance to litigate in a courtroom where she had a chance to prevail. And on the surface - there is only one chance for Plaintiffs to prevail in Small Claims Court.**

## APPENDIX F

Also California Code Of Civil Procedure 116.725 states "nothing in this chapter shall be construed to prevent a Court from correcting a clerical error in a judgment, **or from setting aside and vacating a judgment on the ground of an incorrect or erroneous legal basis for the decision." And in Judge Laurence Rubin's judgment he revealed no rule of law, please see Exhibit N , attached and incorporated by this reference**. Also the judgment was not a final judgment, as the judgment only stated "Plaintiff takes no



money from this claim," Also Judge Laurence Rubin did not dismiss the case with any prejudice And did send a message of apology to the Plaintiff, after he had allowed a hearing with no cross-examination, after he had not wanted to look at her character **references from instructors at Santa monica college, and after having allowed Caucasian Sheriff's deputies into his courtroom who kicked to the floor and who dug their fingernails in her hand, and terrorized the Plaintiff in his courtroom along with defendant Santa Monica College Police Officer Ron Marable, who had lied under oath against Plaintiff!**

**A3 (a) is the claim form submitted to the defendants Board Of Trustees Santa Monica College Community District for IX violations in June 1999.**

**A10 (a) is the claim form submitted to the defendants County Of Los Angeles for monetary damages for deprivation of civil rights under 42 USC 1983, for denying Plaintiff access to the courts via a lawyer because of their settlement policies that very often cut out the Plaintiff's attorney from receiving Statutory Fees under 42 USC 1988 in settlement situations - which depletes the pool of civil rights attorneys willing to take Civil Rights abuse claims - submitted in June 1999.**

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Venue is proper in this county because the acts and omissions in this complaint arose in the United States District, Central District of California and therefore venue lies within this District pursuant to 28 U.S.C. Section 1391. Plaintiff Angela Bernhardt is, and at all times during the events alleged in this complaint was a resident of the County Of Los Angeles, in the State of California.

DEFENDANTS

Defendants Santa Monica College, Santa Monica College Police Department Santa Monica Community District, Santa Monica College Board Of Trustees, are Government entities, and/or public or private entities. County Of Los Angeles, Sheriff Department, County Of Los Angeles, County Of Los Angeles - Santa Monica Municipal Courthouse and State Of California, are governmental entities.. Each other Named defendant is a natural person. The true names and capacities, whether individual, corporate, associate, or otherwise of the 1-10 Caucasian Unknown Named Sheriffs Deputy Bailiffs Defendants,



and 1-2 Unknown Named African American female Sheriff's Deputies of Judge Laurence Rubin's Courtroom R, Santa Monica Courthouse, and each of their names, are unknown to Plaintiff, therefore Plaintiff sues all said defendants by such fictitious names and Plaintiff will ask leave to amend this Complaint to state their true identities and capacities when their names have been ascertained from the County Of Los Angeles Sheriff's Department, County Of Los Angeles Sheriff Lee Baca, Laurence D Rubin, Santa Monica Courthouse or County Of Los Angeles. Of the 1-10 Unknown Named Male Caucasian Sheriffs Deputy Bailiffs and 1-2 Unknown Named African American female Sheriff Deputy of Judge

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Laurence D. Rubin's Courtroom R, Santa Monica Courthouse.

42 USC 1983, 42 USC 1985 (2) (3) and FRAUD AND MISREPRESENTATION

(All Santa Monica College defendants)

1. Plaintiff reported the sexual assault (July 94) on 25th November, 1996 to police officer Ron Marable. The California Statute CCP 338 (4) for fraud and mistake is three years, and so Plaintiff reported the instructor's sexual assault after two and a half years which is within the three year statute of limitations for fraud and mistake. (prompted by the instructor's untrue statements about Plaintiff to the police officer.)

2. and then misrepresentation occurred because defendant Police Officer Ron Marable told Plaintiff the sexual assault was too old to report. In other words Marable told Plaintiff that the Statute Of Limitations had run out to report the sexual assault.

3. which is not true because of the California Civil Procedure 338 (4) three years statute of limitations because of fraud of mistake, to report battery/sexual assault. 4. and Plaintiff relied on defendant Santa Monica College Police Officer Ron Marable's statement and knowledge of the law because he was a police officer

5. and Plaintiff's reliance on his information was justifiable as he is a police officer, and Plaintiff trusted defendant Santa Monica College Police Officer Ron Marable was giving the correct information to Plaintiff - which he was not.

6. so defendant Santa Monica College Police Officer Ron Marable misrepresented the statute of limitations to Plaintiff by saying the sexual assault was too old to report, and his misrepresentation was intentional, because later on when Plaintiff asked him in March 1998,

he denied Plaintiff had ever reported the instructor's sexual assault to him, or that he had interrogated Plaintiff about it detail in November 1996.

7. Also in Santa Monica College's Summary closing their investigation about Instructor Larry Jones's sexual assault on Plaintiff, Exhibit T, dated February 9th, 1998 (is written evidence that the College was stating that Plaintiff first reported the sexual assault to College administrators in May 1997, and not November 25th, 1996, six months earlier - which is when Plaintiff first reported the Instructor's sexual assault to defendant Marable.

Thus defendant Robert Sammis and Defendant Jo Ann Fielder of Human Resources Santa Monica College changed the date when Plaintiff first reported the sexual assault to Santa Monica college to make it look as if Plaintiff reported the Santa Monica College Instructor's sexual assault after Plaintiff had been banned from the college on a very flimsy pretext, as opposed to before.

8. So the February 9th, 1999 Summary Of Investigation Exhibit T, date which states Plaintiff first reporting the sexual assault in May, 1997, is not true as Plaintiff first reported the sexual assault in November 1996, to Santa Monica Police Officer Ron Marable, and so plaintiff reported Instructor Larry Jones's sexual assault on her to Police Officer Ron Marable five months before she was banned from Santa Monica college on a flimsy pretext that stemmed from when she had reported Instructor Larry Jones sexual assault to Police Officer Ron Marable.

9. In the Summary dated 9th, February, 1998, Exhibit T, because the date is changed from 25th, November 1996 to the later date of May 1997, this later date disguises that Santa Monica College had in fact retaliated against Plaintiff for reporting sexual assault by Instructor Larry

Jones to their police department, by banning Plaintiff from the college (on a flimsy pretext).

10. The time of the ban May 1998 - in relation to Plaintiff's police report of 25th Nov 96 against the student Mary- there was a huge time lapse gap of four months which does not make sense to wait that long if the college were really fearful that Plaintiff was a threat, but it does make sense from the standpoint of allowing the statute of limitations run out for the instructor's sexual assault on Plaintiff, and the ban was promoted by and on the premise of Instructor Larry Jones who had already defamed Plaintiff's character to defendant Santa Monica College Police



Officer Ron Marable over the phone, which Police Officer Marable had already conveyed to Plaintiff in November 1996.

11. It was only after February 9th, 1998, that Plaintiff had visible evidence that defendant Robert Sammis and defendant Jo Ann Fielder of Human Resources of Santa Monica College were using this switch of dates in their final closing Summary of Investigation into Allegations of sexual assault, Exhibit T, by a date switch to make it seem as if Plaintiff had been banned from College before Plaintiff had reported Instructor Larry Jones's sexual assault to Santa Monica College, as opposed to being banned from the college 6 months after Plaintiff reported Instructor Larry Jones sexual assault to defendant Police Officer Ron Marable.

Only after February 9th, 1998 did PLAINTIFF have written indication that fraud had taken place, signaling that there really had been a retaliation against Plaintiff for making the sexual assault complaint against Instructor Larry Jones otherwise the dates would not have had to have been twisted around, in order to disguise that a retaliation had taken place, and the switch

of dates is also evidence that there was a conspiracy to defame Plaintiff's character by making out she was reporting the sexual assault at the time she was banned from the college as opposed to her reporting the sexual assault and then was banned from the college. Thus exhibit T , was the evidence that Plaintiff needed to see that there had been obstruction of justice and twisting of the sequence of events in order to disguise the retaliation against Plaintiff and in order to deprive Plaintiff of civil rights and equal protection of the laws guaranteed under the fourteenth amendment and under 42 USC 1983, and 1985 (2)(3).

12. Also in Santa Monica College's Summary of Investigation dated 9th February, 1998, there was no mention that the College tried to interview Police Officer Ron Marable to ask him if Plaintiff had informed him about the sexual assault in Nov, 1996, even though Plaintiff had informed three Santa Monica College administrators, Daniel Cano, of Admissions and records, Brenda Simmons of Admissions and Records; and Joanne Fielder about how Plaintiff had informed Police Officer Ron Marable in November 1996 of the sexual assault against her, and wrote a letter to Joanne Fielder of Human Resources in November 1997, attached as Exhibit Z100 and incorporated by this reference.

13. An impartial and serious investigation into the Instructor's sexual assault on Plaintiff, would have immediately informed Plaintiff of the discrepancy between the date when Plaintiff said Plaintiff first reported Instructor Larry Jones's sexual assault to Police Officer Marable, and



what Marable was stating which was (at least on March 17th, 1998 and at the hearing on 6th Oct. 1998) that there had been no such discussions about sexual assault between Plaintiff and himself in November, 1996.

14. The discrepancy between when Plaintiff said Plaintiff reported the sexual assault to Marable in November 1996, was never addressed in this summary dated February 9th, 1998, and he was never even interviewd, see Exhibit T, attached and incorporated by this reference.

15. In the Key factual findings of the Summary Of Investigation III a. it states Ms. Bernhardt did not file a complaint or inform District personnel of the alleged sexual harassment alluded to her statement of May 28th, 1997, and Jo Ann Fielder and Robert Sammis did not address this discrepancy, even though Plaintiff had informed Joanne Fielder in writing in November 1997 that, I quote, "In November 1996, when I caught Larry Jones lying to Sergeant Ron Marable about me in jest, I saw his abuse of me was on going and that is when I decided to be silent no longer." This was when I first told Sergeant Ron Marable (and Santa Monica College) that Instructor larry Jones sexually assaulted Plaintiff."

16. As the discrepancy in the date when Plaintiff said Plaintiff first reported the sexual assault to Santa Monica College was not directly addressed in the summary of investigation dated February 9th, 1998, Exhibit T, this is evidence of scienter, because there was a discrepancy - even though Plaintiff did not know that there was a discrepancy until it was revealed to her after February 9th, 1998, and also did not discover that the discrepancy in dates was NO MISTAKE until after March 17th, 1998 which is when Plaintiff made that special trip to the police station to ask defendant Police Offficer Ron Marable and discovered he was denying that she reported Instructor Larry Jones sexual assault on her - to her face.

So because the Key factual findings in the Summary Of Investigation III a. states Ms. Bernhardt did not file a complaint or inform District personnel of the alleged sexual harassment alluded to her statement of May 28th, 1997, and because Plaintiff had already informed Santa

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Monica College Administrators Daniel Cano, Brenda Simmons, Dorothy Gelvin and Joanne Fielder previously that Plaintiff had informed defendant Santa monica college Police Officer Marable of the sexual assault in November 1996, the investigation summary Exhibit T, avoided addressing this discrepancy, and avoiding investigating Santa Monica College Police Officer Ron Marable about the discrepancy

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in dates.

And if the investigation had investigated Marable this would have established the discrepancy.

BUT SANTA MONICA COLLEGE AVOIDED REVEALING THE DISCREPANCY TO PLAINTIFF AND IT WAS IN THE COLLEGE'S INTEREST TO HIDE THIS DISCREPANCYIN DATES FROM PLAINTIFF - UNTIL WELL AFTER THE STATUTE OF LIMITATIONS HAD RUN OUT FOR THE INSTRUCTOR'S SEXUAL ASSAULT ON PLAINTIFF, AND SANTA MONICA COLLEGE AVOIDED INTERVIEWING MARABLE ABOUT THE DISCREPANCY BEFORE - AS WELL AS AFTER - PLAINTIFF FOUND OUT THAT THE DISCREPANCY WAS NO MISTAKE.

THE REASON THAT SANTA MONICA COLLEGE POLICE OFFICER WAS NEVER INVESTIGATED ABOUT THE DISCREPANCY IN DATES IS BECAUSE THE COLLEGE HAD ALWAYS KNOWN THAT SANTA MONICA COLLEGE POLICE OFFICER RON MARABLE WAS CONCEALING THE TRUTH, AS HE WAS ACTING ON THEIR BEHALF, AND RATHER THAN ALERT PLAINTIFF TO THAT FACT, THEY CONCEALED IT FROM PLAINTIFF FOR AS LONG AS THEY COULD, UNTIL AFTER THE STATUTE OF

## APPENDIX F

## LIMITATIONS HAD RUN FOR FRAUD AND MISTAKE FOR THE CAUSE OF ACTION OF SEXUAL ASSAULT BY INSTRUCTOR LARRY JONES ON PLAINTIFF.

17. As Plaintiff was not aware that Santa Monica College was misrepresenting the date when Plaintiff said Plaintiff first reported the sexual assault until after February 9th, 1998 when Plaintiff received the written summary, Plaintiff never knew of the discrepancy until after February 9th, 1998. And so Santa Monica College effectively hid fraud, and their retaliation against Plaintiff, until after the statute of limitations had run. As Plaintiff was banned from the college with no due process of law, not because Plaintiff made a complaint about a female student who at one time had been in the instructor's department, but as a retaliation for reporting Santa Monica College Instructor Larry Jones's sexual assault, and in order to defame Plaintiff's character further and in order to protect the good name of Instructor Larry Jones. .

18.Plaintiff believe that the written Summary Of Investigation into Plaintiff's allegation about sexual assault by Instructor Larry Jones, Exhibit T, which Jo Ann Fielder promised Plaintiff in November 1997, but was not prepared until February 9th, 1998 proves scienter, because in an

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impartial investigation Joanne Fielder of Santa Monica College Affirmative Action, and Robert Sammis of Human Resources would investigate if Plaintiff said Plaintiff did first report the sexual assault to Marable - to establish whether Marable agreed with Plaintiff or not. If he agreed great, BUT IF HE DISAGREED, THE COLLEGE WOULD BE HAPPY TO RECORD THAT HE DISAGREED - in the summary of investigation, and that would discredit Plaintiff even further, enhancing

Instructor Larry Jones and their position, but SANTA MONICA COLLEGE could only record that Marable disagreed with Plaintiff only if he and Santa Monica College et al had nothing to hide.

BUT SANTA MONICA COLLEGE AND DEFENDANT SANTA MONICA COLLEGE POLICE OFFICER DID HAVE SOMETHING TO HIDE - AND THEREFORE DID NOT WANT TO ALERT PLAINTIFF TO THE DATE DISCREPANCY UNTIL AFTER THE STATUTE OF LIMITATIONS HAD RUN OUT.

19. Only after February 9th, 1998, did Plaintiff have written evidence that showed Plaintiff what was wrong as far as when Plaintiff first reported the sexual assault. Shortly after Plaintiff arranged to speak to Santa Monica college Police Officer Ron Marable to see what he had to say. And when Marable denied to Plaintiff's face, having ever having heard Plaintiff's sexual assault complaint in Nov. 96, then Plaintiff knew that the May 97 date for Plaintiff's first reporting the sexual assault to the College on Robert Sammis's Summary Of Investigation for Allegetions of sexual assault was a contrivance, and nomistake, as it was backed up by Santa Monica College Police Officer Ron Marable.

STATUTE OF LIMITATIONS AND EQUITABLE ESTOPPEL AND EQUITABLE TOLLING

20. Therefore Ron Marable and Santa Monica College et al - should not be able to raise the statute of limitations as a defense now because of the doctrine of equitable estoppel, which embodies the principle that one, who by his words or action, represents certain state of facts to be true, and thereby induces another to act to his detriment should be thereafter precluded from denying existence of such state of facts. In Re Ellison Associates, 63, B.R. 756.

21. "Estoppel is equitable doctrine invoked by courts to preclude a party from asserting claim or defense which is premised upon that party's wrongdoing, however showing

of affirmative misconduct is necessary to invoke this doctrine against Government. U.S. v Board Of Education of City Of Union City, 697 F. Supp. 167.

The true names and capacities whether, individual corporate associate or otherwise, of



Unknown Named Sheriff Deputies Does 1-50, and Unknown Named Defendants 1 through 100, and each of them, are unknown to Plaintiff, who therefore, sues said defendants by such fictitious names and Plaintiff will ask leave to amend his Complaint to state their true identities and capacities when the same has been ascertained. . Each of the Unknown Named Defendants 1- 100 inclusive, and Unknown Named Sheriff Deputies Does 1-50 inclusive, is in some manner and to some extent liable for the injuries alleged in this Complaint. Each defendant is, and at all times herein mentioned was, the agent, employee, representative of each other defendant, or aligned themselves, in some way. At all times herein mentioned, each and every defendant herein had the legal duty to oversee and supervise the hiring, training, conduct, employment and discipline of each and every other defendant herein. Each defendant, in doing the acts, or in omitting to act as alleged in this Complaint, was acting within the scope of his or her actual or apparent authority, or the alleged acts and omissions of each defendant as agent subsequently were ratified and adopted by each other defendant as principal. Defendants County Of Los Angeles, Los Angeles County Sheriff's Department , Santa Monica College Police Department, Santa Monica College, Santa Monica College Community District, and Santa Monica College Board Of Trustees, and Unknown Named Defendants 75 through 100 are, and at all times herein mentioned were political subdivisions of the State Of California, duly organized and existing under the laws of the State Of California. Defendant R.L. Jones, at all times herein mentioned, was

employed by the defendant Santa Monica College, Santa Monica College District, Santa Monica College Board Of Trustees, and/or County Of Los Angeles, and/or State Of California, and in doing the things hereinafter alleged, was acting within the course and scope of his employment, apart from his sexual assault on Plaintiff in his Santa Monica College class, which was out of bounds of the course and scope of his employment. Defendants, Piedad Robertson, Robert Sammis, Joanne Fielder and Brenda Simmons at all times herein mentioned, were employed by the defendant Santa Monica College, Santa Monica College District, Santa Monica College Board Of Trustees, and/or County Of Los Angeles, and/or State Of California, and in doing the things hereinafter alleged, were acting within the course and scope of their employment Defendants Santa Monica Police Officer Ron Marable, and Santa Monica College Police Chief Eileen Miller at all times herein mentioned, were employed by the defendant Santa Monica College, Santa Monica College Police



Dept. Santa Monica College District, Santa Monica College Board Of Trustees, and/or County Of Los Angeles, and in doing the things hereinafter alleged, were acting within the course and scope of their employment. Defendants Herb Roney, Dorothy Ehrhardt Morrison, Nancy Cattell , Carol Currey, Ilona Jo Katz, Patrick Nichelson, and Annette Shamey at all times herein mentioned, were employed by defendant Santa Monica College, Santa Monica College Community District, Santa Monica College Board Of Trustees, and/or County Of Los Angeles and /or State Of California, and in doing the things hereinafter alleged, were acting within the course and scope of their employment.

Defendant Lee Baca, at all times herein mentioned, was employed by the defendant County Of Los Angeles, as the Sheriff Of the County Of Los Angeles, and doing

the things herinafter alleged was acting within the course and scope of his employment.

Defendant Laurence D. Rubin, at all times herein mentioned, was employed by the defendant County Of Los Angeles, as a Judge in County Of Los Angeles, and doing the things hereinafter alleged, was acting within the course and scope of his employment.

Defendants 1-10 unknown Caucasian male Sheriffs Deputy Bailiffs DOES employed in Judge Laurence Rubin's Courtroom R, County Of Los Angeles, Santa Monica Courthouse at all times herein mentioned, were employed by the defendant County Of Los Angeles, as the Sheriff Of the County Of Los Angeles, and doing the things hereinafter alleged was acting within the course and scope of his employment.

Defendants Sheriff Sherman Moten, 22, Sheriff Deputy Bailiff Terry January (Regular daily Bailiff Of Judge Laurence Rubin's Courtroom R) 23. 1-50 unknown Sheriffs deputy DOES employed by County Of Los Angeles Santa Monica Courthouse, and County Of Los Angeles Sheriffs Department, and 24. Unknown Named Defendants 1 through 75 are, and at all times herein mentioned were, employed and/or agents and/or servants and/or employed some other relationship with one or more of the governmental entities Named herein as Defendants, and in doing the things hereinafter alleged were acting within the course and scope of said relationship.

Plaintiff is informed and believes and thereon alleges that, at all times relevant to this Complaint, all defendants who are natural persons, namely, R L Jones, Ron Marable, Eileen Miller, Piedad Robertson, Robert Sammis, Brenda Simmons, Herb Roney, Dorothy Ehrhart Morrison,

Nancy Cattell, Carol L.Curry, llona Jo Katz, Patrick Nichelson, Annette Shamey, Laurence D. Rubin, 1-10 Caucasian male Sheriff's Deputy Does (of Judge Laurence D. Rubin's courtroom R) Terry January, Sherman Moten, Sheriff Deputy Does 1-50, and Unknown Named Defendants 1-50, acted under the color of state law, and each such defendant is sued both in an individual as well as in an official capacity.

Plaintiff is informed and believes and thereon alleges that, at all times relevant to this Complaint, defendant Offune Obiamiwe who is a natural person, acted under the color of state law.

Plaintiff is unaware of the true names of 1-10 Caucasian male Sheriff's Deputies and/or Sheriff's Deputy Bailiffs (Of Judge Laurence D. Rubin's courtroom R), but they acted under color of state law, and have been hidden under color of state law

In December 1998 Plaintiff presented a claim for damages to the State Board of Control, Government Claims Division of the State Of California pursuant to Government Code Section 910 et seq. Said claim was denied by the State Board Of Control, by its letter of 15th January 1999 to plaintiff that said they had no jurisdiction, as the "Entity that you allege caused the damages or injuries is not a State Government Agency." Said denial is attached to this Complaint as Exhibit B and incorporated herein by this reference. Defendants' liability under California law is premised both on Government code Sections 815.2 and 820

FACTS COMMON TO ALL COUNTS

Plaintiff was deprived of interests protected by the Constitution or laws of the United States and defendants caused all such deprivations while acting under color of state law Plaintiff is informed and believes and thereon alleges that all acts and/or omissions alleged to have been

engaged in by any defendant are alleged to have been committed with evil motive and intent, and in callous, reckless, and wanton disregard to the rights of plaintiff.

In the following causes of action -Plaintiff named the person(s) who were visibly involved in causing damages and injury to Plaintiff. By not naming others who could be responsible or liable for these acts i.e. people who created the policy or who were indifferent to the acts of the visible parties, these other persons or entities may also responsible for these acts or omissions. And Plaintiff is not giving any rights away in not naming them now, or conceding that these persons or entities or



individuals or officials or municipality are not responsible or liable for the acts of the visible parties. All Plaintiff is doing by naming only the visible parties in each cause of action is making the complaint clear..

**BATTERY/ RESTRAINED SEXUAL ASSAULT/SEXUAL HARASSMENT UNDER 42. U.S.C. 1983, 42 § USCA 13981 INTENTIONAL TORT, AND COMMON LAW;**

**(Defendants R .L. Jones)Defendant R.L. Jones is employed as a photography teacher by Santa Monica College, and has been employed there for many years. Plaintiff took photo 50, color printing with RL Jones in June of 1994**. Please see Exhibit Q attached and incorporated by this reference, which are RL Jones written comments on Plaintiff's work in that class. Beginning in approximately July 1994, and continuing thereafter defendant R L Jones, while acting as a Santa Monica College photography instructor subjected Plaintiff to disparate treatment in the terms and conditions of her photography class on the basis of her sex in the form of actions and statements, including the following - **Plaintiff was studying a photograph at the color filter table in the photography lab,**

when plaintiff was surprised by something very hard being pressed up against her behind. When Plaintiff turned around she found it was Defendant Instructor R Larry Jones with his erect genitals pressed up against her. Plaintiff was unable to stop defendant R L Jones sexual assault on her person because a solid table was in front of her, so she could not move out of his sexual assault on her person. Defendant Instructor R L Jones moved off plaintiff quickly and out of the vicinity, after plaintiff turned around and recognized that it was her instructor. The sexual assault lasted about ten seconds. Both plaintiff and defendant exchanged no words. After Plaintiff was in a state of shock. The foregoing violated plaintiff's right under the Fourth Amendment to be secure in her person from unreasonable **seizures**. There is a constitutional right of privacy in the fourteenth amendments guarantee of personal liberty, so that if there is an invasion of privacy because of a restrained battery/sexual assault -then the Constitutional right to privacy limits the power of the government to regulate that invasion of privacy with laws that state - a one time occurrence of an action i.e. restrained offensive battery is not harassment, because that law is stating that a restrained offensive

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**battery is not harassment because it only happened one time - & therefore that law is unconstitutional as it denies an individuals fundamental right to be safe from attack and to privacy - even if the invasion of privacy i.e. the restrained offensive battery only happens one time."**The photography lab in the Technical Building, was not brightly lit, and had many compartments and dark rooms and black curtains, and there was a small corridor area by the color filter table where plaintiff was standing when she was sexually assaulted by Instructor R L Jones

**BATTERY is the intentional infliction of a harmful or offensive bodily contact, and Defendant RL Jones desired to cause the contact, which was harmful and offensive to Plaintiff. Defendant RL Jones intended to commit offensive touching to Plaintiff – i.e. restrained sexual assault, and such contact occurred, therefore defendant R L Jones is liable for any UNFORESEEN CONSEQUENCES that have ensued since that time.**

After defendant Jones had sexually assaulted Plaintiff, defendant Santa Monica College Instructor RL Jones began to pursue student Marissa, a student in this same summer 1994 Photo 50 class. A photo of student Marissa is attached and incorporated by this reference as **Exhibit R**. Shortly after R.L. Jones had sexually assaulted Plaintiff, defendant RL Jones told Plaintiff during a class session in front of Marissa, that he was trying to persuade Marissa to be his girlfriend, and Marissa did become RL Jones's girlfriend!

On the right side of the photograph **Exhibit R**, is a former Santa Monica College Instructor, Deirdra Garvey who witnessed defendant Instructor R L Jones's flirtation with Plaintiff in the summer of 1994, and had to ask Instructor RL Jones at the end of the semester whether he wanted the College's Photographic color filters back as he had left one in Plaintiff's photo portfolio.

Defendant RL Jones was the supervisor of Instructor Deirdre Garvey in the photography department, and her position as an instructor was taken away from her at Santa Monica College in 1992/3 - over an apparent incident with another student in the photography department. A year or so later she was reinstated as a photography instructor before she left the college in 1996. Deirdra Garvey's career as a teacher and reputation suffered, while under RL Jones supervision, over an apparent incident with another student which took place **PRIOR** to any contact that Plaintiff had with

defendant RL Jones. So Plaintiff witnessed a pattern in RL Jones's supervision of females in his department! Plaintiff found that Deirdre Garvey was an excellent photography teacher, in a department housing many volatile students and instructors.

While Photo 50 was in session in July 1994 Deirdre Garvey had seen the movie *Forrest Gump* and suggested for everyone in the class to see it. Plaintiff saw the film *Forrest Gump* a week or two after Instructor Larry Jones had sexually assaulted her.

The film was released in Los Angeles on 6th July, 1994. After seeing the movie Plaintiff said to Deidre in the photo lab, how true it was that Forrest Gump's mother had to have sex with the school principle in order for her child, Forrest Gump to get an education. Plaintiff remembers feeling awkward after saying this because she turned around and there was Instructor R L Jones who overheard.

Plaintiff realized that she had made the connection between the school principle in *Forrest Gump* who had wanted sex from Forrest Gump's mother in return for an education for her son, just as defendant Instructor RL Jones of Santa Monica College also by his action wanted sex in return for a photography education from Plaintiff - in that he had already made a surprise sexual assault on Plaintiff in his Photo 50 class in that summer of 1994, which was still in session.

The only difference was that unlike Forrest Gump's mother in that movie - **Plaintiff had never consented to a surprise restrained sexual assault on her person by Instructor Larry Jones in the classroom setting, or in any setting - in exchange for an education in photography.**

**INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS - CAUSED BY RESTRAINED SEXUAL**

## APPENDIX F

**BATTERY/ AND DEFAMATION OF CHARACTER (Defendants R .L. Jones)**

The day after defendant Larry Jones sexually assaulted plaintiff, defendant asked a question in a joking manner and humiliated the plaintiff in front of other students in the color printing class lab who were standing near him. Defendant R L Jones's shouted out loudly at plaintiff **"Are you touching me again?"** Plaintiff was nowhere near defendant and so defendant Jones shouting out to other students "Are you touching me again" was not true as he twisted the situation around, of the previous day. This habitual joke of defendant R L Jones made students laugh, but for plaintiff – the

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"are you touching me again" question had an additional meaning for Plaintiff that day, because she had been sexually assaulted by defendant RL Jones the previous day.

**INTENTIONAL INFLICTION OF MENTAL DISTRESS (Defendant R L Jones)**

**occurs if defendant R L Jones intentionally or recklessly causes by outrageous conduct, severe emotional or mental distress to the Plaintiff.**

**DEFAMATION OF CHARACTER BY SLANDER PER SE IN ADDITION TO RL JONES SEXUAL ASSAULT OF PLAINTIFF (Defendants R .L. Jones)**

This DEFAMATORY false statement by defendant RL Jones, **"Are you touching me again,"** was slander per se, and not true, as Plaintiff was a few feet away from defendant L Jones, and not touching him when he asked plaintiff his "joking" question 'are you touching me again? To repeat defendant R L Jones statement was also twisting around his predatory restrained sexual assault on Plaintiff of the previous day on the Plaintiff - as he was publicizing that Plaintiff had touched him in the past, when in reality it was the way around. And when

defendant RL Jones said to Plaintiff "Are you touching me again?" in front of others, he said it with knowledge of its falsity - in all of its possible meanings, and in reckless disregard of the truth.

**Therefore Defendant Jones slandered Plaintiff's reputation, even though he was doing this "in jest"**, and this was the beginning of a pattern to RL Jones twisting of facts around concerning the Plaintiff.. As Instructor RL Jones had sexually assaulted Plaintiff the previous day - his defamatory statement against her in public – showed his way of operating - and was the same kind of twisting around and defamatory statement made to Police Officer Ron Marable two years later, when Plaintiff had been harassed not by RL Jones - this time, but by a student called Mary a few days earlier.

In other words R L Jones's had a pattern of defaming Plaintiff's character in public. And as his defamation of Plaintiff's character was communicable and credible because of his status as an instructor - it multiplied, and when the heat got turned way up, because Plaintiff reported that he had sexual assaulted her, the defamation against her became contagious and outrageous.

Defendant R L Jones's asking Plaintiff "Are you touching me again?" also had a dual purpose in that it was also a device to elicit some response from Plaintiff to give him an answer to his sexual



advances on her of the previous day. Plaintiff responded with "Yes, I am touching you – because you touched me yesterday." Plaintiff replied in this way – in an angry tone of voice – even though plaintiff was not touching defendant R L Jones - and was nowhere near him, to inform the defendant quite firmly, never to sexually assault her again!

## APPENDIX F

Plaintiff did not report the sexual assault at the time it happened in 1994, and finds in hindsight - it was a mistake not to have reported Defendant R L Jones's sexual assault on her then - to Santa Monica College and their Police Department and **Plaintiff would also** know now to insist that it be taken down in writing. And if the police department now refused to take down the complaint in writing Plaintiff would now go to the head of the school immediately, and would not wait for the schools investigation and would not go to County Of Los Angeles State Court because both were totally biased, and the County's Court was not only biased it was extremely dangerous. But at the time Plaintiff didn't know all this - Plaintiff just had a suspicion of the outcome, and hoped to peacefully get on with her life, and hoped that the abuse would be a one time occurrence, which unfortunately - in the end it was not!

Plaintiff reported defendant Larry Jones's sexual assault on her to fellow students, Timothy Tindall, and Robert Clato-Day in July of 1994.

Later on in 1994 Plaintiff witnessed defendant RL Jones asking a student Suzy from Denmark to pose nude for some private photographic shoots he was holding on campus. Plaintiff was aware that defendant RL Jones was asking many of the female photography students to pose nude for shoots on campus in the campus laboratory, as defendant RL Jones's student girlfriend Marissa had also told Plaintiff about this project.

It was in November 1996 Plaintiff became fully aware of her mistake in not reporting defendant Santa Monica College Instructor Larry Jones for his sexual assault on plaintiff in 1994, as he defamed Plaintiff's character to Santa Monica College Police Officer Ron Marable over the telephone, according to Police Officer Ron Marable, and as Instructor Larry Jones defamed Plaintiff's character for no good reason - when Plaintiff 's purpose was to be free of all harassment at Santa Monica

College, Plaintiff found it important at that time - **to no longer keep it from Santa Monica College authorities – that Instructor Larry Jones had performed a restrained sexual assault on**



**her in the classroom setting.**

And what is so sad about this matter is that the only reason Plaintiff had approached the Santa Monica College Police department was to be free of harassment at Santa Monica College, and yet that Police department with their misrepresentation, fraud and deceit, along with Santa Monica College's unfair and discriminatory procedure harassed her much further, all of which eventually led to police brutality against her in a County Of Los Angeles Courtroom.

**CALIFORNIA CIVIL CODE OF PROCEDURE 338 (4) IS A THREE YEAR LIABILITY EXCEPTION FOR FRAUD OR MISTAKE - WHICH GIVES RELIEF ON THE GROUNDS OF FRAUD OR MISTAKE** .California Civil Code Of Procedure 338 is a three years statutory liability exception; for fraud or mistake, and **CCP338 (4) gives relief on the ground of fraud or mistake.** The cause of action for sexual assault/battery in that case is not deemed to have accrued until the discovery by the aggrieved party of the facts constituting the fraud or mistake in not reporting the sexual assault before, and Plaintiff discovered this in November, 1996 which is when Plaintiff did report the sexual assault to Santa Monica college Police department because of R L Jones defamation of her character and his intentional infliction of emotional distress.

But Police Officer Marable refused to take a written report and told Plaintiff that defendant Jones's sexual assault on her was too old to report, which wasn't true as Plaintiff was reporting the sexual assault to defendant Marable within the three year statute of

limitations for fraud and mistake under California Civil Code of Procedure 338 (4).

Therefore as defendant Santa Monica college police officer Ron Marable's obstructed justice by refusing to write down Plaintiff's sexual assault complaint against defendant Larry Jones in November 1996, by saying it was too old to report, and by misrepresenting the statute to Plaintiff, **THE STATUTE SHOULD BE TOLLED FROM NOVEMBER 1996 TO DATE TO INCLUDE THE CAUSE OF ACTION FOR SEXUAL ASSAULT NOW. AS THE SANTA MONICA COLLEGE DEFENDANTS SHOULD NOT BE ALLOWED TO BENEFIT BY THEIR OBSTRUCTION OF JUSTICE, THEIR INTENTIONAL MISREPRESENTATION OF THE STATUTE TO THE PLAINTIFF WHEN SHE WAS REPORTING THE SEXUAL ASSAULT TO THE SANTA MONICA COLLEGE POLICE DEPARTMENT WITHIN THE STATUTE OF LIMITATIONS, AND SANTA MONICA COLLEGE ET AL, ETC, SHOULD**

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**NOT BENEFIT FROM THEIR FRAUD BY LATER SAYING THAT PLAINTIFF HAD NEVER MADE THE SEXUAL ASSAULT COMPLAINT ABOUT INSTRUCTOR LARRY JONES TO SANTA MONICA POLICE OFFICER RON MARABLE IN NOVEMBER 1996.**

**AND SANTA MONICA COLLEGE SHOULD BE BARRED FROM RAISING THE STATUTE OF LIMITATIONS AS A DEFENSE NOW - AS SANTA MONICA COLLEGE POLICE OFFICER RON MARABLE MISREPRESENTED THE STATUTE OF LIMITATIONS TO THE PLAINTIFF when she first reported Larry jones sexual assault to him. in November 1996, AND THEN DEFRAUDED PLAINTIFF LATER BY DENYING TO HER FACE IN**

## APPENDIX F

**MARCH 1998 - THAT SHE EVER REPORTED INSTRUCTOR LARRY JONES'S SEXUAL ASSAULT ON HER TO HIM.** Plaintiff had reported Instructor Larry jones sexual assault on her within the statute of limitations but was purposely misled by defendant Police officer Ron Marable, and Santa Monica College Police Department, for the purpose of covering up her sexual assault complaint against Instructor Larry Jones, so as to stop her from having any chance to lititgate against Instructor Larry Jones and Santa Monica College while the sexual assault complaint was still within the statute of limitations. Which is also very similar to the bad faith present in defendant Police Officer Ron Marable concealing the California Government Claim requirement at Santa Monica Courthouse on October 6th, 1998. Plaintiff sees another pattern here!!!!

**EQUITABLE ESTOPPEL, AND EQUITABLE TOLLING.** The general elements of equitable estoppel are (1) assertion of a position by conduct or word, i.e. Ron Marable told Plaintiff sexual assault was too old to report when it was not to old to report as per California Code of Civil procedure 338 (d) for fraud and mistake is three years statute, and plaintiff reported Instructor Larry Jones's sexual assault on her within three years (2) There was reasonable reliance thereon, and (3) resulting prejudice. And a fourth element, most often explicitly stated in promissory estoppel cases, is that the **estoppel will be enforced only to the extent that justice so requires. In this case the public interest is served because Santa Monica College Police should be protecting and serving and giving equal protection under the law to Plaintiff and to other students at Santa Monica College, and this Constitutional right was fraudulently taken from Plaintiff in this case.**

**INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

## APPENDIX F

**(Defendants R .L. Jones.)**

In November 1996 Plaintiff went to Santa Monica College Police station to report an incident of harassment by student Mary. Student Mary had harassed Plaintiff a few days earlier in November, 1996, Defendant Santa Monica College Police Officer Ron Marable wrote down **the police report** - not an accurate rendition. The police report is attached and incorporated by this reference as **Exhibit C**. When Plaintiff made the police report to defendant Santa Monica College Police Officer Ron Marable on 25th November, 1996, plaintiff had been harassed by Mary, but defendant Marable did not witness this, had not been involved, nor was anyone else involved, until Plaintiff made the police report five days later.

**Plaintiff was the only person who made a police report. Plaintiff was the only person being harassed** Plaintiff involved Defendant Instructor R L Jones solely because he was the only person that could identify Mary, and her last name, as Plaintiff did not know it.

Defendant Police Officer Ron Marable contacted Defendant Instructor R Larry Jones by telephone while plaintiff was in his office to ascertain student Mary's last name. After Defendant Ron Marable and defendant Jones spoke over the telephone, Defendant Ron Marable revealed to Plaintiff that Defendant Instructor R Larry Jones had made comments about Plaintiff to him.

Plaintiff found defendant Jones's comments to defendant Marable about her to be untrue. Plaintiff told defendant Santa Monica College Police Officer Ron Marable that Defendant R L Jones's comments about her were false. Defendant Santa Monica College Police Officer Ron Marable responded to Plaintiff saying that **Defendant R. L. Jones** was **"just joking"** and by

## APPENDIX F

**Marable's statement, defendant Santa Monica College Police Officer Ron Marable revealed that he knew defendant R L Jones well, in that he was able to speak for Instructor Larry Jones in his absence, and explain what he meant in his absence.**

Plaintiff was then compelled to report defendant RL Jones's earlier sexual assault on her, to defendant SMC Police officer Ron Marable at the Santa Monica College Police Department

In November 1996, Plaintiff reported defendant Santa Monica College Instructor R L Jones sexual assault on her, to defendant Santa Monica College Police Officer Ron Marable at Santa Monica College Police station, because defendant R L Jones had involved himself against Plaintiff, by

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defaming her character to Marable in a harassment problem that had occurred in November 1996, which he was not witness to, **and so Plaintiff no longer felt any need to keep his restrained sexual assault on her person to herself, any longer, and was compelled to report him.**

**SECOND CAUSE OF ACTION -SEXUAL ASSAULT AND COVER UP OF SEXUAL ASSAULT - DISCRIMINATION -VIOLATIONS UNDER TITLE IX OF THE EDUCATION AMENDMENTS OF 1972, AND," 20 U. S. C. §1681(a), 1687, AS AMENDED, 20 U. S. C. §1681 ET SEQ; TITLE VI OF THE CIVIL RIGHTS ACT OF 42 U.S. C § 2000 d ET SEQ, d-1, d-2, d-7.( ALL SANTA MONICA COLLEGE ET AL, DEFENDANTS)Officially and Individually**

A Title IX claim against a school district was enacted to counter policies of discrimination . . . in federally funded education programs, and that only if school administrators have some type of notice of the gender

discrimination and fail to respond in good faith can the discrimination be interpreted as a policy of the school district.

**TITLE IX PROVIDES THAT "NO PERSON IN THE UNITED STATES SHALL, ON THE BASIS OF SEX, BE EXCLUDED FROM PARTICIPATION IN, BE DENIED THE BENEFITS OF, OR BE SUBJECTED TO DISCRIMINATION UNDER ANY EDUCATIONAL PROGRAM OR ACTIVITY RECEIVING FEDERAL FINANCIAL ASSISTANCE." THE OFFICE OF CIVIL RIGHTS HAS RULED THAT AN EDUCATIONAL INSTITUTION'S' FAILURE TO TAKE THE APPROPRIATE RESPONSE TO TEACHER TO STUDENT HARASSMENT, OF WHICH IT KNEW OR HAD REASON TO KNOW, IS A VIOLATION OF TITLE IX.**

**Damages can be recovered for teacher-student sexual harassment in an implied private action under Title IX if a school district official, who at a minimum has authority to institute corrective measures on the district's behalf has actual notice of, and is more than deliberately indifferent to, and actually obstructs justice by doing its best to cover up - the teacher's misconduct, through Jo Ann R Fielder, Assistant Dean Equal Employment Opportunity**

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**diversity whose written customs, policies and procedures state, "The results of the investigation determined that there were no violations of the district's policy against unlawful discrimination, to include sexual harassment, a one (1) time occurrence of an action [SUCH AS RESTRAINED SEXUAL ASSAULT] is not harassment", Please see Exhibit S, attached and incorporated by this reference which is Jo Ann R Fielder and Santa**

## APPENDIX F

**Monica college's first denial to Plaintiff that Instructor Larry Jones had sexually assaulted her.**

**Also Jo Ann Fielder, Assistant Dean, Equal Employment Opportunity Diversity believed that Plaintiff had been sexually assaulted by RL Jones, and said to Plaintiff in January 1998 when Plaintiff wanted to play her the tape of the other students complaints against R L Jones that she could not hear the tape as it was hearsay evidence, and said to Plaintiff, I quote, " RL Jones knows not to sexually assault students in future because he had been warned, and had gone through enough," Also when Plaintiff pointed out to Jo Ann Fielder in November 3rd 1997 that even rape could be a one time occurrence, Jo Ann R Fielder conceded to Plaintiff that her letter to Plaintiff, Exhibit S, did not make very much sense. Also Jo Ann Fielder said she was going to send the Summary Of Investigation to Plaintiff in November 1997 to plaintiff but it was delayed for another three months for some reason - and it seems that Robert Sammis had not even written it up, and because of the highly apparent switch in dates in that document as to when Plaintiff first reported the sexual assault, which made out that Plaintiff had first reported defendant Jones sexual assault on her when she had already been banned from the College when in fact she reported the sexual assault six months earlier. And Plaintiff had told Jo Ann R Fielder on many occasions including her letter to her in November 1997 that she had reported the sexual assault to Ron Marable in 1996. please see Exhibit Z100, attached and incorporated by this reference, where Plaintiff actually wrote that to Jo Ann Fielder, and yet nobody at Santa Monica College from May 1997 onwards was curious to find out from Ron Marable if Plaintiff**

**had reported the sexual assault to him, or to reveal their findings. .**

The standard set out in Gebser v. Lago Vista Independent School Dist., 524 U. S. 274—is that a school district may be liable for damages under Title IX where it is deliberately indifferent to known acts of teacher-student sexual harassment. Plaintiff believes that the Santa Monica



Community College District was more than indifferent to known acts of teacher student sexual harassment. The Santa Monica Community College District employees and their written customs and policies actually help to cover up the sexual assault by RL Jones on Plaintiff, and through instigating a retaliation against her, which in each wave– became more oppressive, and that included no due process of law. Please see Exhibit D, attached and incorporated by this reference from Brenda Simmons, Associate Dean Of Admissions and records, to Plaintiff, and note that it was dated 1st April, 1997, April Fools Day, and note that a copy was addressed to Chief Of Santa Monica College Police E Miller. The letter stated I quote, " It has come to my notice that you may have violated the Santa Monica College Student Conduct Code...Failure to meet with me may result in further disciplinary action such as having a hold placed on your records at Santa Monica College. Please see Exhibit E, which was Plaintiff's reply to Brenda Simmons, I quote, "I received your letter of 1st April, 1997, and to my knowledge have not violated the Santa Monica College student conduct code. As I have no idea to what you are referring. Please furnish me with the necessary details. But bnb

The Plaintiff informed an employee of the Santa Monica Community College District ie. Police Officer Ron Marable in November 1996, of the restrained sexual assault battery on her person that occurred in Instructor

## APPENDIX F

Larry Jones Photo 50 class, in June 1994, and the defamation of her character that was presently occurring in his office in November 1996 and which Marable conveyed to her, but Santa Monica College Police Officer Ron Marable failed to record the Plaintiff's sexual assault complaint against Instructor Larry Jones, who Marable was well acquainted with, saying that the matter was to old to report, and **Police Officer Ron Marable also trivialized Instructor Larry Jones's defamation of character of the Plaintiff by telling Plaintiff that Instructor Larry Jones was, I quote, "Just Joking!"** And of course Marable did not know if Instructor Larry Jones was just joking or not.

Police Officer Ron Marable had some supervisory power over the offending employee, and could have recorded Plaintiff's sexual assault complaint against Instructor Larry Jones if he had wanted to, and also if it was Santa Monica College's policy to allow their Police department to record Instructor sexual assault on a student whether within a year, or within three years for fraud and

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mistake, but Marable said he couldn't report the sexual assault as it was too old to report.

But after Plaintiff did report it for the second time to the administration six months later, Police Officer Marable did come up to the Plaintiff at the vending machines, said, I quote, "There is so much B.S. at this College - I have to get away at weekends!"

In this case Instructor Larry Jones's sexual assault on the Plaintiff, his later defamation of character of the Plaintiff to the police department.for the purpose of forever covering up his sexual assault of plaintiff, and the Police department's failure to record or act on the Plaintiff's sexual assault complaint, and the later fraud

in denying that she had reported it, caused substantial abuse to the Plaintiff.

The recipient Santa Monica College et al, had actual knowledge of their depriving the Plaintiff of due process of law, and equal protection under the law, and that the harassment and discrimination to the Plaintiff became so severe, pervasive, and objectively offensive that it can be said to have deprived the victim of access to the educational opportunities or benefits provided by the school, especially when the recipients banned the Plaintiff from the Santa Monica College without due process of law, five months after she made the sexual assault complaint about Instructor Larry Jones to the Santa Monica College Police Officer Ron Marable which Marable refused to record, and especially as the recipients refused to investigate their police department for obstruction of justice, misrepresentation, fraud, and suggested to Plaintiff to take the matter to court which then led to police brutality, terrorizing and traumatizing the Plaintiff further.

An implied private right of action for money damages exists under Tltle IX, Franklin v Gwinnett County Public Schools, 503 U.S. 60, where funding recipients had adequate notice that they could be liable for the conduct at issue, Pennhurst State School and Hospital v Halderman, 451 US 1, 17 **but a recipient is liable only for its own misconduct.**

**The requirement that recipients receive adequate notice of Title IX's proscriptions also bears on the proper definition of "discrimination" in a private damages action. Title IX proscribes sexual harassment with sufficient clarity to satisfy Pennhurst's notice requirement and serve as a basis for a damages action.** See Gebser, supra, at 281. Having previously held that such harassment is "discrimination" in the school context under Title IX, The

statute's other prohibitions help to give content to "discrimination" in this context. **The statute not only protects students from discrimination but also shields them from being "excluded from participation in" or "denied the benefits of" a recipient's "education program or activity" on the basis of gender. 20 U. S. C. §1681(a).** It is not necessary to show an overt, physical deprivation of access to school resources to make out a damages claim for **Instructor to student sexual harassment, student to student harassment, and police coverup of instructor sexual aasault and police harassment of student under Title IX**, but **a plaintiff must show harassment that is so severe, pervasive, and objectively offensive, and that so undermines and detracts from the victims' educational experience, that the victims are effectively denied equal access to an institution's resources and opportunities. Cf. Meritor Savings Bank, FSB v. Vinson, 477 U. S. 57, 67.** e) **Additionally, Title IX's regulatory scheme has long provided funding recipients with notice that they may be liable for their failure to respond to non-agents' discriminatory acts. The common law has also put schools on notice that they may be held responsible under state law for failing to protect students from third parties' tortious acts.** Of course, the harasser's identity is not irrelevant. Deliberate indifference makes sense as a direct liability theory only where the recipient has the authority to take remedial action, and Title IX's language itself narrowly circumscribes the circumstances giving rise to damages liability under the statute. If a recipient does not engage in harassment directly, it may not be liable for damages unless its deliberate indifference "subject[s]" its students to harassment, i.e., at a minimum, causes students to undergo harassment or makes them liable or vulnerable

**to it. Moreover, because the harassment must occur "under" "the operations of" a recipient, 20 U. S. C. §§1681(a), 1687, the harassment must take place in a context subject to the school district's control.**

**Where, as here, the misconduct occurs during school hours on school grounds, misconduct is taking place "under" an "operation" of the recipient. In these circumstances, the recipient retains substantial control over the context in which the harassment occurs. More importantly, in this setting, the Board exercises significant control over the harasser, for it has disciplinary authority over its Instructors and Police Officers. Also the School District Board may instruct its Police Department whether the sexual**



**assault complaint against an instructor should be recorded or not when a student, teacher or employee reports an instructor's sexual assault at its Police Department within the three year statute of limitations for fraud and mistake. And the School District board also dictates how Santa Monica College's human resource office construes what sexual harassment is. The Santa Monica College Board Of Trustees agreed that a one time occurrence of an action of which was not specified, and therefore could even be rape or murder in a different situation at Santa Monica College - is not harassment!** Plaintiff first reported Santa Monica College Instructor Larry Jones's sexual assault on her in November, 1996, but Plaintiff had no idea that Santa Monica College was going to cover up her sexual assault complaint against Instructor Larry Jones when she made the complaint to their Police department in November 1996. Police Officer Ron Marable refused to take a written report of Plaintiff complaint as he said the sexual assault

was too old to report, when it was not too old to report. Police Officer Marable found the sexual assault complaint wasn't so old that he did not want to interrogate Plaintiff in detail about it as he was curious - to establish for himself that Plaintiff was reporting that Instructor Larry Jones had sexually assaulted her, which after hearing Plaintiff's description of the sexual assault on her; agreed that it was sexual assault, but Marable still refused to make a written report about it, saying the sexual aasault was too old to report!

Later on Santa Monica College Police Officer Ron Marable denied to Plaintiff's face in March 1998 when she paid a special visit to his Office, that she had ever made a sexual assault complaint to him about Santa Monica College Instructor Larry Jones in November 1996. Plaintiff made that visit in March 1998, because in February 1998 she just received the summary of investigation for her allegations of Instructor Larry Jones's sexual assault on her from Santa Monica College Human Resources Robert Sammis, attached and incorporated by this reference as Exhibit T. Because it was written plainly for Plaintiff to see on Exhibit T, the Summary of Investigation that something was very amiss as the Summary Of Investigation said that Plaintiff first reported the sexual assault of Instructor Larry Jones on May 28th, 1997, when she had been banned from the school without due process of law, when she had in fact first reported the sexual assault six months earlier than this



in November 1996, to Police Officer Ron Marable. Therefore the failure by the educational institution's police department to make a written report of Plaintiff's sexual assault complaint by the Santa Monica College Instructor which Plaintiff reported in November 1996, and which was within the three year

statute of limitations for fraud and mistake under California Civil Procedure 338 (d) at that time, e) and later on the educational institution's police department's denial that Plaintiff had made a sexual assault complaint to Police Officer Ron Marable in November 1996, is an extreme failure to take the appropriate response to teacher to student harassment ( i.e. restrained sexual assault battery, defamation of character and intentional infliction of emotional distress) and is a violation of Title IX, and Santa Monica College's inappropriate response with a police department that covered up her sexual assault complaint by denying that she had ever made that complaint to them created an intimidating, hostile offensive and abusive school environment against Plaintiff that violated Title IX of the Educational Amendments of 1972, which in relevant part, prohibits a student from being 'excluded from participation in, be[ing] denied the benefits of, or be[ing] subjected to discrimination under any education program or activity receiving Federal financial assistance, 20 U.S.C. § 1681 (a}, and which also put Plaintiff in extreme danger in Santa Monica County Of Los Angeles Courthouse Santa Monica College, Santa Monica Community College District and the Board Of Trustees also failed to take the appropriate response when they refused to investigate the Plaintiff's complaint against the Santa Monica College Police department once Plaintiff discovered in March 1998 that the Police department had covered up her sexual assault complaint made to Police Officer Ron Marable in November 1996. The original act of the restrained sexual assault by Instructor Larry Jones in his photography class on Plaintiff in June 1994, when the instructor put his erect genitals on her behind also SUBJECTED PLAINTIFF TO VIOLATIONS OF HER LIBERTY INTEREST TO BE FREE FROM SEXUAL HARASSMENT, TO BE FREE FROM INVASION OF PRIVACY, AND INTRUDED

**APPENDIX F**

**UPON THE PLAINTIFF'S PERSONAL SECURITY, AND WAS IN VIOLATION OF PLAINTIFF'S SUBSTANTIVE DUE PROCESS RIGHTS UNDER THE U.S. CONSTITUTION. Plaintiff did not give up her right, and made no contract to give up her right to report**

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**the Instructor's sexual assault on her to the College administration, when she found it very necessary to do so. Nor was Plaintiff's right to report the instructor's sexual assault on her diminished or forfeited just because she did not report the Instructor's sexual assault on her to the Santa Monica College administration at the time it occurred. The act of Instructor Larry Jones's sexual assaulting Plaintiff through no fault of her own, was to create a dilemma for Plaintiff whether she reported his sexual assault on her or not.** And when she first reported Instructor Larry Jones's sexual assault on her to Santa Monica College Police - the police department covered up anyway, and retaliated against her for reporting it, by banning her from the College without due process of law and which was promoted by RL Jones and the Police department by Jones's defamation of Plaintiff's character to Defendant Santa monica Police Officer Ron Marable who told Plaintiff about this. And when she reported Jones sexual assault again when she found out that she was banned from the College, this new date was used as the "Official" date that she had first reported Instructor Larry Jones's sexual assault on her, and by changing the date that she first reported the sexual assault from November 25th, 1996, to May 28th, 1997 this disguised Santa Monica College's retaliation against her for reporting Instructor Larry Jones's sexual assault on her, and the first retaliation against her was to ban her from Santa Monica College, without due process of law.

**APPENDIX F**

Santa Monica College did not ban Plaintiff from the college because she had not contacted Brenda Simmons, over a conflict with a student called Mary.

And Plaintiff was the person who was complaining about Mary harassing her and she walked into the Police department in November 1996 to make that complaint, so to ban Plaintiff from Santa Monica College over a conflict with Mary where no police were involved, when Plaintiff had merely made a complaint to stop the girl from harassing her in future, was a very flimsy pretext indeed. But the subtext for banning Plaintiff from Santa Monica College and the necessary defamation of character that this entailed, was because she reported Instructor Larry Jones's sexual assault on her to Police Officer Ron Marable in November 1996.

Later on in Santa Monica College's "investigation" further covered up that the sexual assault had ever occurred, and Plaintiff to her horror - then found out in March 1998, that Santa Monica

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College Police Officer Ron Marable was denying that she had ever reported sexual assault to him.

The denial and cover up by Santa Monica College's police department that Plaintiff had made a complaint to them in November 1996 about the instructor R L Jones's sexual assault on her, served to discriminate against the Plaintiff further than Instructor Larry Jones's initial violations depriving PLAINTIFF OF EQUAL PROTECTION UNDER THE LAW GUARANTEED UNDER THE UNITED STATES CONSTITUTION.

And by this unequal protection under the law, and by depriving Plaintiff of due process of law guaranteed under the 14th Amendment Santa Monica College, Santa Monica Board Of Trustees, Santa Monica College Police Department DISCRIMINATED AGAINST THE

## APPENDIX F

PLAINTIFF BY CONDONING THE INSTRUCTOR'S VIOLATIONS OF HER LIBERTY INTEREST TO BE FREE FROM SEXUAL HARASSMENT, AND OTHER FORMS OF HARASSMENT - I.E. DEFAMATION OF CHARACTER, INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS, AND INTRUSIONS ON PLAINTIFF'S PERSONAL SECURITY, and placed her in a precarious situation in County Of Los Angeles Santa Monica Courthouse, where an unfair hearing ensued, where no cross –examination was allowed, which culminated in police brutality and terrorizing and traumatizing the Plaintiff. Further.

Therefore Santa Monica College Police Department, Santa Monica College, and Santa Monica College Community School district responded with more than just deliberate indifference to known incidents of sexual harassment and defamation of character of Plaintiff, and the School District's policy implemented by their Police Department and ordinances only served to cover up the Plaintiff's sexual assault complaint against the Instructor. And when Santa Monica College and Santa Monica College Community District, and the Santa Monica College Board Of Trustees eventually did investigate Plaintiff's sexual assault complaint against the instructor - after Plaintiff made the complaint for the second time to the administration in June 1997, the administration discriminated against the Plaintiff by condoning the restrained sexual assault on the Plaintiff where the Instructor put his erect genitals on her behind in his photography class, through written policies and ordinances that state that if an action (such as restrained sexual assault) only happens one time - and the person (who caused the restrained sexual asasult i.e. Instructor Larry Jones) is put on notice about his action - then his (restrained



sexual assault on the Plaintiff ) - is not harassment.

So this Santa Monica College policy or written custom that is attached as Exhibit S, and incorporated by this reference ALSO DISCRIMINATES AGAINST THE STUDENT IN VIOLATION OF TITLE IX, AS WELL AS PLAINTIFF'S LIBERTY INTEREST TO BE FREE FROM SEXUAL ASSAULT AND INTRUSIONS ON HER PERSONAL SECURITY IN A CLASS AT SANTA MONICA COLLEGE, AND WERE IN VIOLATION OF PLAINTIFFS SUBSTANTIVE DUE PROCESS RIGHTS UNDER THE U.S. CONSTITUTION.

And when the Plaintiff eventually discovered on March 17th, 1998, that the Santa Monica College Police Officer Ron Marable is denying that Plaintiff reported the sexual assault to him, and is denying that he did interrogate her about the Instructor's sexual assault in November 1996, and she asks Santa Monica College Superintendent Piedad Robertson (after first going to the Santa Monica Police and Santa Monica City Town Hall) to carry out an investigation of the Police concerning this cover up, and the College Superintendent Piedad Robertson eventually refuses to do so – this refusal to investigate the Santa Monica College Police is in
violation of California Penal code 832.5 (a) which states,: "Each department or agency in this state that employs peace officers shall establish a procedure to investigate complaints by members of the public against the personnel of these departments or agencies, and shall make a written description of the procedure available to the
public." these Santa Monica College District policies discriminate against the Plaintiff in violation of Title IX.

**MUNICIPAL VIOLATION OF CIVIL RIGHTS;CONSPIRACY TO DEPRIVE PLAINTIFF OF A FAIR AND MEANINGFUL HEARING.**

(County Of Los Angeles, County Of Los Angeles Municipal Court, Judge Laurence D Rubin, 1-10

Caucasian Sheriff's deputies. All Santa Monica College defendants - (But not Jo Ann Fielder and Brenda Simmons)

**NO PROCEDURAL DUE PROCESS OF LAW IN SANTA MONICA COURTHOUSE - COUNTY OF LOS ANGELES AND JUDGE LAURENCE RUBIN'S COURTROOM**

Then on 6th October, 1998 when Plaintiff took this matter into County Of Los Angeles Court Santa Monica - Plaintiff did not receive Procedural Due Process of Law from Judge Laurence Rubin because a fundamental Requirement of Procedural Due Process Of Law is "the



**opportunity to be heard." Grannis v Ordean 234 U.S. 385, 394, "which must be granted at a meaningful time and in a meaningful manner," thereby promoting fairness and accuracy in the resolution of disputes. Fuentes v Shevin, 407 U.S. 67, 92 S.Ct. 1983, 32, L.Ed.2d 556 (1972), 40, 47, 48, 49, 50, guaranteed under the 14th Amendment.**

Plaintiff was not granted the opportunity to be heard at a meaningful time and in a meaningful manner in County Of Los Angeles Santa Monica Courthouse. And Procedural Due Process of law did not occur in Judge Laurence Rubin's

Courtroom R, Santa Monica Courthouse, County Of Los Angeles, on October 6th, 1998 for the following reasons:

**Elements Of No Due Process Of Law**

1. Because the Government Claim requirements had not been disclosed by Judge Laurence Rubin, the Santa Monica Court Small Claims office or by the defendants to Plaintiff, and Plaintiff did not know about the requirements, and thus if the Court or the Defendants had informed Plaintiff of this requirement prior to the hearing, or at the beginning of the hearing, **then there would not have been a hearing, or a judgment entered on October 6th, 1998.**

**2. Judge Laurence Rubin restricted Plaintiff from cross-examining Santa Monica College Police Officer Ron Marable, the defendant, and vice-versa at the beginning of the hearing.**

**3. Judge Laurence Rubin did not, and could not properly cross-examine the defendant Santa Monica College Police Officer Ron Marable as Judge Rubin did not know at that time the details of the case. Therefore even though cross-examination is at the heart of a fair hearing no true cross- examination took place at this hearing!**

4. Plaintiff had a tape cassette of a witness, Offune Obiamiwe, who was present at this hearing, and this evidence, the tape of **witness Offune Obiamiwe further substantiated Plaintiff's claim** of the inappropriate behavior on the part of Santa Monica College Instructor Larry Jones towards female students, as in plaintiff's case she had been sexually assaulted, and in Offune Obiamiwe's case she had been approached by instructor larry jones's girlfriend to be photographed by him in the nude Judge Laurence Rubin refused to listen to Plaintiff's tape of Offune Obiamiwe's evidence where she also complained of the instructor Larry Jones's inappropriate behavior towards her at Santa Monica



College. -. Plaintiff still has the court copy of the subpoena for Offune Obiamiwe as neither the court clerk or Judge Laurence Rubin wanted to file it in the court record, even though it states on Exhibit Z104 attached and incorporated by this reference concerning California Small Claims subpoenas that "After the subpoena is served, a Proof of Service form with the orginal subpoena must be filed with the Small Claims Court Clerk before the hearing date. And the Small claims court clerk told me to just bring it to the Court hearing - not to file it with her!

## APPENDIX F

Plaintiff had wanted to show three character references from instructors at Santa Monica College, attached as Exhibit D1, 2, 3, which at the beginning of the hearing Judge Laurence Rubin said he might look at if he needed to after hearing my testimony and the police officer's testimony. Later on because I still wanted to show these three character references to Judge Laurence Rubin, these three sheets of paper became the catalyst and pretext for police brutality against me as I had exposed Santa Monica College Police Officer Ron Marable's obstruction of justice to Judge Laurence Rubin and his sheriff's deputies/bailiffs, even though Santa Monica College Police Officer still continued to deny this Judge Laurence D Rubin's judgment, attached and incorporated as **Exhibit N,** dated 6th October, 1998, states that "Defendant does not owe any money on plaintiff's claim." But his judgment does not reveal that the Court and the defendant failed to notify Plaintiff about the procedural requirement of filing the California Government Code 910 et seq with them, especially because the Court and defendants never wanted to give the Plaintiff any chance to litigate in a climate where she had the chance to prevail. Instead the Court and the defendants set the Plaintiff up to litigate in a climate of No Due Process which contained Caucasian Sheriff's deputies with records of excessive force, and then defendant and Judge closed the case because of a procedural requirement that had been hidden from the Plaintiff all along i.e. No Government Claim, and which was then even omitted from Judge Laurence D Rubin's judgement as being the reason he closed the case.

**NO CROSS EXAMINATION ALLOWED**

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II) The County Of Los Angeles Court Judge Laurence Rubin barred Plaintiff from cross-examining the defendant Santa Monica College Police Officer Ron

Marable, and vice versa, at any time during the hearing on October 6th, 1998. So even though Plaintiff alleged that Santa Monica College Police Officer Ron Marable had obstructed justice – Plaintiff was barred from cross examining him because Judge Laurence Rubin had ordered - no cross examination - at the beginning of the hearing.

In Goldberg v Kelly, 397 U.S. 254 (1970) it states, "In almost every setting where important decisions turn on questions of fact, due process requires an opportunity to confront and cross-examine adverse

witnesses. E. g., ICC v. Louisville & N. R. Co., 227 U.S. 88, 93-94 (1913); Willner v.Committee on Character & Fitness, 373 U.S. 96, 103-104 (1963).

Professor Wigmore, commenting on the importance of cross examination, states in his treatise,

5 Wigmore on Evidence (3d. 1940) 1367: "For two centuries past, the policy of the Anglo-American system of Evidence has been to regard the necessity of testing by cross-examination as a vital feature of the law. The belief that no safeguard for testing the value of human statements is comparable to that furnished by cross - examination, and the conviction that no statement (unless by special exception) should be used as testimony until it has been probed and sublimated by that test, has found increasing strength in lengthening experience."

In Greene v. McElroy 360 US. 474 (1959) it states, "Certain principles have remained relatively immutable in our jurisprudence. One of these is that where governmental action seriously injures an individual, and the reasonableness of the action depends on fact findings, the evidence used to prove the Government's case must be disclosed to the individual so that he [she] has an opportunity to show that it is untrue. While this is important in the case of documentary evidence, IT IS EVEN MORE IMPORTANT WHERE THE EVIDENCE

CONSISTS OF THE TESTIMONY OF INDIVIDUALS WHOSE MEMORY MIGHT BE FAULTY or who, in fact, might BE PERJURERS OR PERSONS MOTIVATED BY MALICE, VINDICTIVENESS, INTOLERANCE, PREJUDICE, OR JEALOUSY. We have formalized these protections in the requirements of confrontation and cross-examination. They have ancient roots. They find expression in the Sixth Amendment . . . .This Court has been zealous to protect these rights from erosion. It has



spoken out not only in criminal cases, . . . BUT ALSO IN ALL TYPES OF CASES WHERE ADMINISTRATIVE . . . ACTIONS WERE UNDER SCRUTINY"

NO EVIDENCE ALLOWED – NO WITNESS TESTIMONY ALLOWED –SPOLIATION OF EVIDENCE

III)The County Of Los Angeles Court Judge Laurence Rubin prevented Plaintiff from presenting all her documented evidence, apart from a police report Exhibit C attached, which the Court then - never returned! So it was lucky that the Plaintiff had an extra copy of the police report! The Court Judge Laurence Rubin also prevented Plaintiff from presenting her witness's testimony, and a cassette tape evidence of her witnesses testimony, even though her witness was present in the Courtroom, Please see Exhibit O attached, which is the subpoena for the witness Offune Obiamiwe. Instead the Court allowed Plaintiff's witness to leave. The Sheriff's department also prevented Plaintiff from presenting Plaintiff's character references from Santa Monica College instructors to the Court, Please see Exhibit L1,L2, and L3 using police brutality by Caucasian Sheriffs deputies against Plaintiff to accomplish this goal, Please see Exhibit Z101 and Z102 which are photos of Plaintiff's hand and leg ten days after the occurrence. And also by allowing defendant Santa Monica College Police Officer

Ron Marable to join the police brutality activity towards the end.

JUDGE LAURENCE RUBIN DID NOT KNOW THE DETAILS OF THE CASE AND THEREFORE WAS NOT IN A POSITION TO CROSS –EXAMINE DEFENDANT POLICE OFFICER RON MARABLE

WHO WAS LYING UNDER OATH BY SAYING THAT PLAINTIFF HAD NEVER MADE A SEXUAL ASSAULT COMPLAINT TO HIM ABOUT INSTRUCTOR LARRY JONES IN NOVEMBER 1996

III) The Court, Judge Laurence Rubin, was not in a position to properly cross-examine Santa Monica College Police Officer Ron Marable as he was unaware of all the fine details of the case – at least on October 6th, 1998. Only Plaintiff was in a position to cross-examine Santa Monica college Police Officer Ron Marable in a thorough manner, as she was the victim of his misrepresentation and deceit, and Plaintiff was the only person in a position to bring the inconsistencies in Marable's testimony to light. Plaintiff had typed up questions in preparation for cross examination on October 6th, 1998, but was stopped from asking those questions, and



cross-examining him by Judge Laurence Rubin of County Of Los Angeles Court.

DEFENDANT POLICE OFFICER RON MARABLE CONCEALED FROM PLAINTIFF AND THE COURT AT THE BEGINNING OF THE HEARING THAT PLAINTIFF HAD NOT MET THE CALIFORNIA GOVERNMENT CLAIM REQUIREMENT – AND THERE WAS TIME FOR THE PLAINTIFF TO BE INFORMED OF THE CALIFORNIA GOVERNMENT CLAIM REQUIREMENT AND TO MEET IT.

IV) Defendant Santa Monica College Police Officer Ron Marable who was the only Santa Monica College defendant to appear, and who represented all the other named Santa Monica College defendants on that case - that day, did not disclose that the California Government Claim requirement had not been met by Plaintiff- at the beginning of the hearing on October 6th, 1998. (Plaintiff was unaware that there was a Government Claim requirement at that time!)

**Defendant Santa Monica College Police Officer Ron Marable concealed the Government Claim Requirement from plaintiff for the illegitimate purpose of continuing and controlling the process, using it to surprise and disrupt the hearing, at an opportune moment, and so the California Government Claim requirement (which had not been met by Plaintiff because she was uninformed about it), was used as a device to terminate this hearing and any further litigation against the defendants, by making it seem that a legitimate and fair hearing had taken place when it had not!**

THE CALIFORNIA GOVERNMENT CLAIM REQUIREMENT IS NOT SUPPOSED TO BE HIDDEN BY -OR USED BY DEFENDANTS AND COUNTY OF LOS ANGELES JUDGE - AS A DEVICE TO STOP PLAINTIFF FROM EVER LITIGATING IN A PROCESS THAT PLAINTIFF HAS THE POSSIBILITY TO PREVAIL IN – ESPECIALLY AS PLAINTIFF STILL HAD TIME TO FILE THE CALIFORNIA GOVERNMENT CLAIMS AGAINST DEFENDANTS.

The California Government Claim requirement was not designed to be used as a device by the defendant or the Santa Monica, County Of Los Angeles Court to nullify, neutralize or disguise the right for Plaintiff to have Due Process of Law, an opportunity to litigate in a process that Plaintiff has the possibility to prevail in, after Government Claims requirements have been met,

whether a County Of Los Angeles court or any other court in California. And on October 6th, 1998, Plaintiff had no such possibility, as she had not been informed about the Government claim requirement by either the court or the defendants, and thus was not in a position to have met the requirement.

NO CURIOSITY FROM JUDGE LAURENCE RUBIN AS TO WHETHER THE TIME LIMIT TO FILE THE CALIFORNIA GOVERNMENT CLAIM AGAINST DEFENDANTS HAD EXPIRED!

It was at least half an hour into the hearing before defendant Santa Monica College Police Officer Ron Marable revealed obscurely that the Government Claim requirement had not been met to Judge Laurence D Rubin by saying,"And There's No Claim." Judge Laurence D Rubin understood immediately and closed the hearing because of it.

And when defendant Santa Monica College Police Officer Ron Marable said, "And There's no claim," Judge Laurence D. Rubin was not at all curious to ask Plaintiff if a (Government) Claim had been filed, and didn't stop to explain to Plaintiff what a (Government) Claim was!

Judge Laurence Rubin also didn't ask when the cause of action accrued in order to establish whether Plaintiff still had time to file a government claim, against defendants. When in fact she was still within the year statute of limitations to meet the requirement, but the Court never inquired if the one year limit had passed, nor did the Court offer her an opportunity to meet the California Government Claim requirement by setting the hearing to a later date, and thus PLAINTIFF DID NOT RECEIVE A HEARING OR THE PROCESS THAT WAS DUE TO HER IN SANTA MONICA COUNTY OF LOS ANGELES COURTHOUSE AS SHE NEVER GIVEN THE

OPPORTUNITY TO HAVE A HEARING WHERE SHE WOULD BE IN A POSITION TO PREVAIL.

CALIFORNIA GOVERNMENT CLAIM REQUIREMENT AND ONE YEAR TO FILE AFTER ACCRUAL OF THE CAUSE OF ACTION

V1) On October 6th, 1998, Plaintiff had time to file a government claim against defendants as the accrual for the cause of action had occurred on March 17th, 1998 which is when Plaintiff confronted Police Officer Ron Marable in his office, and so Plaintiff had a year to file a government claim under California Government Claim



under 911.2 911.4 (a) (b), 911.6 (b) (1) – which state:

911.2. A claim relating to a cause of action for death or for injury to person or to personal property or growing crops shall be presented as provided in Article 2 (commencing with Section 915) of this chapter not later than six months after the accrual of the cause of action. A claim relating to any other cause of action shall be presented as provided in Article 2 (commencing with Section 915) of this chapter not later than one year after the accrual of the cause of action.

911.4. (a) When a claim that is required by Section 911.2 to be presented not later than six months after the accrual of the cause of action is not presented within such time, a written application may be made to the public entity for leave to present such claim.(b) The application shall be presented to the public entity as provided in Article 2 (commencing with Section 915) of this chapter within a reasonable time NOT TO EXCEED ONE YEAR AFTER THE ACCRUAL OF THE CAUSE OF ACTION and shall state the reason for the delay in presenting the claim. The proposed claim shall be attached to the application. In computing the one-year period under this subdivision, time during which the person who sustained the alleged injury, damage, or loss is a minor shall be

counted, but the time during which he is mentally incapacitated and does not have a guardian or a conservator of his person shall not be counted.

911.6. (a) The board shall grant or deny the application within 45 days after it is presented to the board. The claimant and the board may extend the period within which the board is required to act on the application by written agreement made before the expiration of the period.

(b) The board shall grant the application where one or more of the following is applicable:

(1) The failure to present the claim was through mistake, inadvertence, surprise or excusable neglect and the public

(2) entity was not prejudiced in its defense of the claim by the failure to present the claim within the time specified in Section 911.2.

ABUSE OF PROCESS

The defendants of this case Santa Monica College, Santa Monica College Community District, Santa Monica College Police department and Santa Monica College Police Officer Ron Marable (hereinafter Santa Monica College defendants) used the legitimate process of the Santa Monica, County Of Los Angeles court hearing for an illegitimate ulterior purpose by conducting the



hearing knowing Plaintiff had no chance of prevailing. The defendants used the California Government Claim requirement, knowing that Plaintiff had not met that requirement, and intentionally concealed the requirement from the Plaintiff at the beginning of the hearing in order to prevail because they knew that without Plaintiff having met that requirement - she had no chance of prevailing. The California Government claim requirement 910 et seq, was not designed to be used as a device, to

permit the defendant Santa Monica College Police Officer Ron Marable, Santa Monica College, Santa Monica College Police Department and Santa Monica College District, to secure an advantage over, the Plaintiff, by allowing a process to continue, one that the Plaintiff could never prevail in - in that the Plaintiff had not met the California Government claim requirement on October 6th, 1998 and was not advised by the court – Judge Laurence Rubin that a Government Claim was required for this hearing.

The California Government Claim requirement was hidden in bad faith, at the beginning of the hearing, by the defendant (s), and was used later on by the defendant(s) in that same process as a defense and device to close the hearing, a device with which Judge Laurence D Rubin complied with.. The defendants, concealed the California Government Claim requirement at the beginning of the hearing on October 6th, 1998, for the illegitimate purpose of continuing and controlling the process, using it to surprise and disrupt the hearing, at an opportune moment, and as a device to terminate any further litigation against the defendants, by making it seem that a legitimate and fair hearing had taken place, when in fact - it had not.

The legitimate process of the Court was also used for an illegitimate ulterior purpose to coerce Plaintiff to stop proceedings against them for obstruction of justice and other causes of action. That is why Caucasian Sheriffs deputies were in the Courtroom who were trained in martial arts and who had been trained to punch softly and who are most likely to be famous four, and have records of excessive force – and that is why they are now being hidden. The County Of Los Angeles, Santa Monica Courthouse hearing on October 6th, 1998, was used as a threat and a club on the Plaintiff literally, and was a form of extortion, and was a perversion of the process after it

was issued, as the defendants knew that Plaintiff had no chance of prevailing that day.

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Judge Laurence Rubin just quickly closed the case, as opposed to continuing the case to another date- which is what he would have done if he were trying to conduct a fair hearing!

BAD FAITH AND NO FAIR DEALINGS IN THAT THE PROCESS CONTINUED WITHOUT DEFENDANT OR COURT INFORMING PLAINTIFF THERE WAS A CALIFORNIA GOVERNMENT CLAIM REQUIREMENT AT THE BEGINNING OF THE HEARING.

Also the process continued without defendant Santa Monica College Police Officer Ron Marable or Judge Laurence Rubin informing Plaintiff that there was a California Claim requirement, and when the defendant Santa Monica College Police Officer Ron Marable used this as a defense half an hour into the proceeding, the Court instead of inquiring whether the incident or accrual of the cause of action occurred within the time limit to file a government claim – so as to give Plaintiff a chance to file the claim and continue the proceeding to another date to be fair to the Plaintiff, as the Plaintiff usually only has one chance in Small Claims anyway, Judge Laurence Rubin terminated the hearing, with a judgment that did not reflect that the hearing had been terminated because the California Government Claim had not been met, and also his judgment did not reveal any rule of law concerning Plaintiff's emotional injury complaint against the defendants, and also his judgment did not reflect that he closed the hearing - because Police Officer Ron Marable had just said, I quote, "And there's no claim!"

VIOLATION OF 42 USCS § 1985 (2) Obstructing Justice, intimidating party, witness or juror.

(Santa Monica College et al, etc, defendant RL Jones, defendant Police Officer Ron Marable)

## APPENDIX F

If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any Court of the United States, from attending such court, OR FROM TESTIFYING TO ANY MATTER PENDING THEREIN, FREELY, FULLY, AND TRUTHFULLY, OR TO INJURE SUCH PARTY OR WITNESS IN HER PERSON OR PROPERTY ON ACCOUNT OF HIS HAVING SO ATTENDED OR TESTIFIED, OR TO INFLUENCE THE VERDICT, PRESENTMENT or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment or indictment lawfully assented to by him, or of his being or having been such juror; **or if two or more persons conspire for the purpose of impeding,**



hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right or any person or class of persons, to the equal protection of the laws.

Plaintiff alleges Defendant Santa Monica College Police Officer Ron Marable, R L Jones and Santa Monica College et al, in the State Of California conspired to deter, by force, intimidation, and threaten Plaintiff and, defendant Offune Obiamiwe from testifying as a witness at County Of Los Angeles Santa Monica Courthouse for Plaintiff's lawsuit against defendants R L Jones and Santa Monica College et al, freely, fully, and truthfully and defendant Offune Obiamiwe became a hostile witness towards Plaintiff instead, even though she had earlier complained of RL Jones inappropriate behavior towards her and other students to Cary Childress an instructor in a perspective class. in January 1998.

## APPENDIX F

On October 6th, 1998, Defendant Offune Obiamiwe sat with defendant Santa Monica College Police Officer Ron Marable prior to the hearing in Santa Monica Courthouse, and when asked to give evidence concerning defendant RL Jones inappropriate behavior towards women she began to defame Plaintiff's character to the Court and Sheriffs deputies instead, by volunteering false information not part of the proceeding.

Please see attached information about what happens to people in situations such as this by noted social psychologist Stanley Milgram and articles on Obedience to Authority, attached as Exhibit Z109, Z110, Z111, about defendants who work in the scope of their employment, and fellow students who take the easiest and safest, route out of courtrooms for themselves.

" FOR MANY PEOPLE OBEDIENCE IS A DEEPLY INGRAINED BEHAVIOR TENDENCY, INDEED A POTENT IMPULSE OVERRIDING TRAINING IN ETHICS, SYMPATHY AND MORAL CONDUCT. The dilemma inherent in submission to authority is ancient, as old as the story of Abraham, and the question of whether one should obey when commands conflict with conscience has been argued by Plato, dramatized in Antigone, and treated to philosophic analysis in almost every historical epoch. Conservative philosophers argue that the very the very fabric of society is threatened by disobedience, WHILE HUMANISTS STRESS THE PRIMACY



OF THE INDIVIDUAL CONSCIENCE." (especially after having kept quiet about an Instructor's sexual assault for two and a half years)

Milgram goes on to say " The essence of obedience is that a person comes to view him or herself as the instrument for carrying another person's wishes and he therefore no

longer regards himself as responsible for this actions. Once this critical shift of viewpoint has occurred, all of the essential features of obedience follows. The most far reaching consequences is that the person feels responsible to the authority directing him but feels no responsibility for the content of the actions that the authority prescribes. Morality doesn't disappear - it acquires a radically different focus; the subordinate person feels shame or pride depending on how adequately he has performed the actions called for by authority."

Noted social psychologist Stanley Milgram also said that, I quote, "The problem of obedience is not wholly psychological. The form and shape of society and the way it is developing have much to do with it...Even Eichmann was sickened when he toured concentration camps, but he had only to sit at a desk and shuffle papers. At the same time the man in the camp who actually dropped Cyclon B into the gas chambers was able to justify his behavior on the ground that he was only following orders from above. Thus there is a total fragmentation of the total human act, no one is confronted with the consequences of his decision to carry out the evil act. **THE PERSON WHO ASSUMES RESPONSIBILITY {JUST AS THE CAUCASIAN SHERIFF'S DEPUTIES IN JUDGE LAURENCE RUBIN'S SANTA MONICA COUNTY OF LOS ANGELES COURTROOM) HAVE** EVAPORATED. PERHAPS THIS IS THE MOST COMMON CHARACTERISTIC OF SOCIALLY ORGANIZED EVIL IN MODERN SOCIETY.

Defendant Offune Obiamiwe acted with actual malice in making a statement in the knowledge that it was false, and in reckless disregard for the truth, and she may have helped to provoke animosity in the Caucasian Sheriff's deputies towards Plaintiff by making that statement against Plaintiff in the Courtroom.

## APPENDIX F

As Defendant Offune Obiamiwe made a false and defamatory statement against the Plaintiff publicizing her statement to the Court and all the Sheriff's deputy bailiffs in the courtroom, **and yet in April 1998 Offune Obiamiwe had told Plaintiff to subpoena her for a court hearing she may**



**have become part of the conspiracy to obstruct justice and deprive Plaintiff of rights under 42 USCS § 1983 § 1985 (2) (3) , and instead of giving evidence about the Instructor's inappropriate behavior against women that she too had experienced, worked against the Plaintiff by defaming her character in front of the Court.**

It is also possible that Offune Obiamiwe may have defamed the Plaintiff's character maliciously, in the knowledge there had been obstruction of justice concerning Plaintiff's sexual assault complaint as Plaintiff had told her about this, and thus was apprised and had reason to fear a backlash against herself under the Color Of State Law, **and so defendant Offune Obiamiwe aligned herself with the color of State Law against the Plaintiff, to defame her character in the courtroom.**

VIOLATION OF 42 USCS § § 1985 (3)

(Against All Named Defendants)

42 USCS 1985 (3) Depriving persons of rights or Privileges., states if two or more persons in any state or territory conspire, or go in disguise on the highway or freeway, or on the premises of another, for the purposes of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws, or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such state or Territory the

equal protection of the laws, in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators.

**Santa Monica College defendant Ron Marable was conscious that he had not taken down Plaintiff's complaint about Instructor Larry Jones's sexual assault on her in November 1996. And was also conscious when he interrogated Plaintiff about Instructor Larry Jones's sexual assault on her in November 1996, as he was curious to find out if Plaintiff was reporting sexual**

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**assault and he wanted to know all the details. Therefore Santa Monica College Police Officer Ron Marable was conscious that he had interfered with the law - by not giving Plaintiff equal protection under the law.**

**Because Police Officer Ron Marable did not write down Plaintiff's sexual assault complaint against Instructor Larry Jones which was within the three year time limit for fraud and mistake under CCP 338 (d) and Police Officer Ron Marable and/or the policy of Santa Monica college, was to abridge the privileges or immunities of Plaintiff, by denying her equal protection of the laws, and as Marable did act on the premise of another i.e. Larry Jones, and had taken in the premise of another ie. Instructor Larry Jones who had defamed Plaintiff's character to Police Officer Ron Marable, as Police**

## APPENDIX F

**Officer Ron Marable told Plaintiff about instructor** Larry Jones's premise about her which prompted Plaintiff to report Instructor Larry Jones's sexual assault of her to Police Officer Ron Marable.

This abridging of plaintiff's privileges and immunities in not taking down plaintiff's sexual assault complaint was also compounded by defendant Ron Marable later denying - that she had ever made the complaint to him.

Defendant Ron Marable was also conscious that he had obstructed justice and abridged Plaintiff's privileges and immunities when he denied to the Plaintiff in March 1998 to her face, that Plaintiff had ever made the sexual assault complaint to him in November 1996.

In March 1998 Police Officer Ron Marable, kept repeating over and over again to Plaintiff, "I'm not biased! I'm not biased!" and eventually rushed out of his office saying to the Plaintiff as he ran into the street, I quote, "I haven't got time to waste on you!" Police Officer Ron Marable then left Plaintiff in his office at Santa Monica College Police Department.

And Private discrimination is inequality before the law, when there is manipulation of the law and its agencies, that sanction or give sanctuary to that private discrimination. Defendant Ron Marable was conscious of influencing the law, and was conscious that he had obstructed and interfered with the law. He did know defendant Instructor Larry Jones well, well enough to say that Instructor Larry Jones was just joking when Instructor Larry Jones had defamed Plaintiff's character to him.

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Police Officer Ron Marable came up to the Plaintiff at the vending machines after she had reported the sexual assault for the second time to Santa Monica College in

May 1997 - and told her, "There is so much BS. at Santa Monica College that I have to get away at weekends"

Santa Monica College defendants, Instructor R L Jones, Santa Monica College Police Officer Ron Marable, Santa Monica College Police, Santa Monica College, Santa Monica College Community District, conspired, and went in disguise, on the premises of Santa Monica College Instructor Larry Jones ( who had performed a restrained sexual assault on Plaintiff in his Photo 50 class) and Santa Monica College Police Officer Ron Marable (who had not recorded Plaintiff's sexual assault complaint against Instructor RL Jones) To deprive Plaintiff of equal protection of the laws, and equal privileges and immunities under the laws, including but not limited to:

**1. The right to be free from a restrained sexual assault or any serious harassment in a classroom setting, even if the restrained sexual assault only occurs one time.**

**2. The right to report to a College Police Department or any Police Department restrained sexual assault by a College Instructor - within the three year statute of limitations for fraud and mistake under California Civil Code of Procedure 338 (4), and have that report written down, and remembered!**

**3. The right to be secure in their person from any invasion by anyone - including instructors.**

**The object of the conspiracy was to hide Santa Monica College Instructor Larry Jones's sexual assault of plaintiff, and avoid any culpability and liability. Plaintiff reported the assault to defendant Ron Marable, who refused to take a report and said the sexual assault was too old to report, and so through his words and action Marable did cause to be done, an act in furtherance of the object of the conspiracy, whereby Plaintiff was ultimately**

injured in her person and her property and was deprived of having and exercising any right or privilege of a citizen of the United States.

Santa Monica College and/or Santa Monica College Police department and/or Santa Monica College Police Officer Ron Marable and/or R L Jones conspired to manipulate, and obstruct justice, and thus denied Plaintiff Equal Protection of the laws. When Plaintiff later reported the sexual assault again to the Santa Monica College administration they ended the investigation

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by stating a one time occurrence (of restrained sexual assault/offensive battery in a photo class) where the person (R.L. Jones) was put on notice (by Angela Bernhardt) is not harassment, (i.e.restrained sexual assault/offensive battery) Also the harassment by now had occurred more than one time, but took a different form.

After defendant Santa Monica College police officer Ron Marable had interrogated her about the sexual assault yet had obstructed justice by not taking down her complaint, he would on occasion come up to Plaintiff at Santa Monica College airport campus, and say Hello Ms. Bernhardt. Marable's emphasis on the word Ms. ridiculed Plaintiff, because he had covered up her sexual assault complaint by not making a written report about it and then by later denying she had ever made the complaint to him.

Because of Marable's cover up of Plaintiff's complaint, and because of his mocking Plaintiff when he spoke to her and in his emphasizing the word Ms. the requisite animus is there in Marable's accentuation of the word "Ms" which he said in

**contempt for Plaintiff's class, in that he had deprived Plaintiff of the equal enjoyment of legal rights, and equal protection under the law, because of her status as a Ms. i.e. a female student who had reported sexual assault to him by a Santa Monica College Instructor.**

And there are many overt acts in furtherance of a conspiracy because Santa Monica College Police officer Ron Marable covered up plaintiff's complaint against defendant R L Jones for sexual assault on her person, and intentionally obstructed the course of justice by misrepresenting the Statute to the plaintiff, and by informing her that the sexual assault matter was too old to report, when it was not too old to report, and by not taking down a written report about defendant R L Jones sexual assault of Plaintiff, when Plaintiff reported it to Defendant Marable in November 1996. In doing these acts defendant Ron Marable was at all times acting under color of state law, and his overt act to obstructing the course of justice, and his intentional misrepresentation of the Statute to the Plaintiff occurred in furtherance of a conspiracy to deprive Plaintiff of Civil Rights and Equal Protection Of The Laws. All defendants intended to discriminate against the plaintiff and acted under color of state law and authority, and all acts done in furtherance of conspiracy resulted in injury to plaintiff's person,

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and prevented her from exercising right and privilege of United States Citizen to equal protection under the laws.

The retaliation against the Plaintiff by banning her from the school for no good reason, and without due process of law, the discriminatory Santa Monica College written policy custom of a one time action is not harassment even though that harassment was that Instructor larry jones surprised Plaintiff by putting his hard genitals on Plaintiffs behind in a class at Santa

Monica College when she could not move out of his attack on her - the threats to Plaintiff by Santa Monica College Chief Of Police Eileen Miller, the threats of the police to Plaintiff by Robert Sammis of Human Resources towards Plaintiff when she visited President Piedad Robertson, the refusal of either the Santa Monica College Police department or the college President to investigate defendant Santa Monica College Police Officer Ron Marable, the assigning of the case to **Judge Laurence D Rubin, his aversion to cross-examination, his avoidance of even looking at Plaintiff's character references from Instructors, at Santa Monica College, please see Exhibit L1, L2, and L3 the character references for Plaintiff from those instructors attached and incorporated by this reference. .**

The spoliation and loss of evidence by Judge Laurence Rubin - the police report Exhibit C attached, the court subpoena not being accepted, the witness being dismissed, the concealment of the California Government Claim requirement, the process being continued even though Plaintiff had no chance of prevailing, the Judge not offering to continue the proceeding when Plaintiff had submitted the required California Government Claim, the assault and battery on the Plaintiff in the courtroom, with white sheriffs who now are hidden because of their records of excessive force, Sheriff Terry January being included instead of the Caucasian Sheriff's deputies, Sheriff Sherman Moten who did his very best to diminish Plaintiff's complaint about the sheriff's by not recording the Plaintiff's full complaint on the official form, see Watch Commanders report **Exhibit Z117,** and white paper attached which are Sherman Moten's notes that he refused to put on the Watch Commanders report and that he refused to sign, **Exhibit Z118.**

## APPENDIX F

**Sheriff Lee Baca's refusal to allow Plaintiff to look at mug shots of Caucasian Sheriff's**



deputies with records of excessive force and please see Plaintiff's letter to him dated 29th, January, 1999 exhibit Z118, attached and incorporated by this reference where I complained that as the complaint against the Caucasian Sheriff's deputies had not been properly taken down by Sheriff Sherman Moten Plaintiff was concerned that there would not be a proper investigation because if the complaint was not taken down completely how could there be a proper investigation - his abrupt closing of the investigation, please see exhibit P, attached and incorporated by this reference, which amply satisfy the requirement of acts done in furtherance of the conspiracy. Finally, the Plaintiff who was target of that conspiracy - alleges trauma and extreme personal injury resulting from all these acts.

SYSTEMATIC PATTERN OF PLANNING ONE STEP AHEAD

If it is true that Santa Monica College were ready for Plaintiff's lawsuit in February 1998 having just closed the investigation of the Instructor's sexual assault and were ready with a Motion To Quash Service Of Summons And Complaint in February, 23rd, 1998, see proof of service Exhibit Z104, attached and incorporated by this reference, and that Motion to Quash existed prior to Plaintiff ever filing a lawsuit against them, then the fact that Santa Monica college were ready in advance for a lawsuit is more evidence that the college-had a system in place! This systematic pattern of the college planning one step ahead, may have also occurred when the Santa Monica College policeman Ron Marable wouldn't take a written sexual assault report about the instructor's sexual assault of Plaintiff, and then later denied we ever had the conversation. This systematic pattern of Santa Monica

College planning one step ahead may also have occurred by arranging that the Santa Monica Courthouse Case be heard by Judge Laurence Rubin, and by arranging that the Santa Monica Courtroom be populated with White Sheriff's Deputies with records of excessive force on October 6th, 1998, who are now being hidden by the Santa Monica Courthouse and the Sheriff's department. Please see my letter to Candace C Cooper presiding Judge Of Santa Monica Courthouse dated March 1999, attached as Exhibit Z103. And even if the date of service, February 23rd, 1998, on Santa Monica College's Proof Of Service of Motion To Quash exhibit Z104, to Plaintiff is just a typing error, it still coincides with Plaintiff

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**providing additional evidence of the instructor's inappropriate behavior towards female students, and Santa Monica College closing their investigation of the instructor's sexual assault on Plaintiff – in the instructor's favor, and not including the new evidence in their investigation Summary Exhibit T, dated February 9th, 1998!**

**Plaintiff now believes that** Santa Monica College was prepared for Plaintiff filing a lawsuit against them in February 1998 and had a Motion To Quash Summons and Complaint ready and waiting - even at that time, because **they had just closed the investigation on the instructor's sexual assault on Plaintiff** in the instructor's favor. The other crucial time when Plaintiff might have instigated a lawsuit against Santa Monica College, was after Plaintiff was barred from taking classes at Santa Monica College without Due Process Of Law from April through May 1997, in retaliation for Plaintiff reporting the sexual assault to the Santa Monica College Police Officer Ron Marable, and also after March 17th, 1998, the dates Plaintiff found out that Santa Monica College Police

Officer Ron Marable covered up and was denying that Plaintiff had reported the instructor's sexual assault to him. Plaintiff believes that Santa Monica College created a diversion after depriving Plaintiff of her civil rights in April and May 1997, after banning her from taking classes without due process of law, in that they decided to investigate the instructor's sexual assault of Plaintiff, to make it seem as if they were interested in the violation but the investigation was arbitrary, it omitted evidence, distorted evidence and was a cover up - a diversion and red herring, to take Plaintiff away from the fact that Plaintiff had been deprived of Civil Rights, had not been given due process, and had not been given equal protection under the law, in November 1996, and April and May 1997.

The systematic way Santa Monica College and et al and their employees have operated in advance - all the way along in this case- to cover up crime and protect their own interests - leads Plaintiff to this conclusion. It is also conceivable as Santa Monica College knew very well that Plaintiff knew that she had been deprived of Civil Rights in April and May 1997 when Santa Monica College barred plaintiff from taking classes without Due Process Of Law as Plaintiff wrote many letters to them at the time, about this . Attached is my letter to Santa Monica College's administration dated 10th, July, 1997, Exhibit Z106 through Exhibit Z107 , complaining of the lack of Due Process.

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Plaintiff believes - that Santa Monica College et al were ready for a lawsuit from me **after February 9th, 1998** because the Santa Monica College administration had just denied and closed their in-house investigation concerning Santa Monica College's instructor Larry Jones's sexual assault of me, and their summary of the investigation to me dated February, 9th, 1998, attached

and incorporated by this reference as **Exhibit I was sent** out to me only days before February, 23rd, 1998.

I had previously received a denial of the sexual assault claim in October 1997, please see Exhibit J attached and incorporated by this reference, where Joanne Fielder for Santa Monica college's Human resources office states, " In accordance with paragraph 2B of Santa Monica Community College District's (SMCCD) Administrative Regulation 4112f, Unlawful discrimination, Affirmative Action, Title IX and Sexual Harassment complaint procedures for job applicants, employees and students, an investigation was conducted into your allegations of sexual harassment...the results of the investigation determined there were no violations of the district's policy against lawful discrimination, to include sexual harassment, and a one (1) time occurance of an action, where the individual was put on notice about the incident does not constitute harassment. A copy of the complete investigation is on file within the Human Resources Office." Exhibit J was not the summary of the investigation, or the closure of the investigation.

Attached is **Exhibit Z119** a copy of **Santa Monica College Community District's local ordinance AR4112.2f 1 through 5 concerning Unlawful Discrimination, Affirmative Action, Title IX and sexual harrassment complaint procedures for job applicants, employees and students. At the end of this ordinance there is a reference to California Code Of Regulations (Administrative Code0 Title 5, Section 59307, 59328, 59334, 39336, 39338, 39340. In the entire ordinance AR4112.2f** it does not state **"and a one (1) time occurence of an action, where the individual was put on notice about the incident does not constitute harassment." So Plaintiff now does not know which law Joanne Fielder Of Human Resources Office is**

referring to as in her letter it was given no reference and thus seemed to be part of AR4112.2f, which was referenced. And from Jonanne Fielder's letter to Plaintiff in October 1997 that did not have , a copy of Santa Monica College's ordinance AR4112.2f attached to it, Plaintiff understood the Santa Monica College District Ordinance AR4112.2f included this part - **"and a one (1) time**

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**occurence of an action, where the individual was put on notice about the incident does not constitute harassment.'** And even though it is clear to the Plaintiff now that the Santa Monica College Community District ordinance does not include this extra part, it was added to the ordinance by Jo Ann Fielder Of Santa Monica College for Santa Monica College even though it is not written as part of that ordinance. **Plaintiff went to Joanne Fielder in October 1997 to complain about her letter and denial of Plaintiff's sexual assault complaint, Plaintiff complained to Joanne Fielder about the unfairness of this logic, and gave her an example by saying - "What if someone were raped? - Are you saying that a one (1) time occurence of a rape, where the individual was put on notice about the rape does not constitute rape. In Plaintiff's case the sexual assault was an involuntary restrained sexual assault/battery.** Also if Joanne Fielder Of Santa Monica College's human resources office did not believe that Instructor Larry Jones sexually assaulted Plaintiff in his class then why did Joanne Fielder even state that **"and a one (1) time occurence of an action, where the individual was put on notice about the incident does not constitute harassment." especially as it is not even in the Santa Monica College Administrative Regulation Personnel ordinance AR4112.2f, and is not part of any law that Plaintiff is aware of.**

## APPENDIX F

Santa Monica Community College District's (SMCCD) Administrative Regulation 4112f, where it states, "and a one (1) time occurrence of an action, where the individual was put on notice about the incident does not constitute harassment." Should be made facially invalid if it is not drawn with sufficient clarity and definiteness

to inform a person of ordinary intelligence what actions are proscribed, as a vague statute regulating harassment, where the nature of harassment is not made clear, and which voids harassment if it only happens one time is fundamentally unfair, as it violates both due process and equal protection of the laws.

A law is invalid if its purpose or effect is to place a substantial obstacle in the path of person receiving equal protection of the laws. SMCCD's Administrative Regulation 4112f is Unconstitutional and burdens a significant liberty interest of Plaintiffs and other students,



teachers, and employees because it states that a one time occurrence of an action, where the individual was put on notice about the incident does not constitute harassment. SMCCD's Administrative Regulation 4112f does not make clear the nature of that action that does not constitute harassment when it only happens one time. In this case the action was a restrained offensive battery by an instructor on his student, but that action in another case could be rape. As the action that happened only one time was a restrained battery on Plaintiff's person the action invaded Plaintiff's right to privacy as far as her body. The Roe v Wade Court found a right to privacy in the fourteenth amendment's guarantee of personal liberty. A restrained battery is an invasion of privacy and violates Plaintiff's right to privacy found in the fourteenth amendments guarantee of personal liberty and the restrained battery is still an invasion of privacy even

if it only happens one time. There is a constitutional right of privacy in the fourteenth amendments guarantee of personal liberty, so that if there is an invasion of privacy through a restrained battery the constitutional right to privacy limits the power of the government to regulate that invasion of privacy by saying that a one time occurrence of an action i.e. restrained offensive battery is not harassment if it only happened one time, and by implication not an invasion of the fundamental right to privacy.

**DEFAMATION OF CHARACTER**

**(Offune Obiamiwe individually)**

In January 1998, Offune Obiamiwe an ex-photography student began to complain loudly about photography Instructor Larry Jones's behavior towards female students in Cary Childress's Perspective class.

Offune Obiamiwe asked in January 1998, if it was ethically right (for (defendant) Instructor Larry Jones) to solicit and photograph his students in the nude, and said that she did not understand how (defendant) Mr. Jones did not get into trouble at Santa Monica College for dating another student, Marissa who was in the photography department at that time.

Defendant Santa Monica College student Offune Obiamiwe witnessed defendant Santa Monica College Instructor R L Jones's inappropriate behavior towards female students in 1994/5, and



announced her concerns publicly in a class at Santa Monica College in January 1998, which Plaintiff taped.

In April 1998, defendant Offune Obiamiwe told Plaintiff she had been approached by defendant R L Jones student girlfriend Marissa, see attached photograph of Marissa Exhibit R incorporated by this reference, to do nude photography for defendant RL Jones at Santa Monica College in 1994/5, and had declined the invitation.

## APPENDIX F

Defendant Offune Obiamiwe suggested that Plaintiff subpoena her for a future Court hearing, even though defendant Offune Obiamiwe did not want to give her evidence to Santa Monica College telling Plaintiff it wouldn't help because she already knew, as Plaintiff had already told her that Santa Monica College Police Officer Ron Marable had obstructed justice by hiding and not recording Plaintiff's sexual assault complaint concerning defendant Instructor R L Jones. So defendant Offune Obiamiewe told Plaintiff she thought the same thing would happen to her, if she gave her evidence to Santa Monica College.

Also Defendant Offune Obiamiwe gave no indication to Plaintiff, that she did not believe Plaintiff as far as the sexual assault and obstruction of justice, **instead defendant Offune Obiamiwe suggested to Plaintiff that Plaintiff subpoena her for a future Court hearing in April 1998, which she later reneged on, and became a hostile witness instead.**

In September 1998 Plaintiff subpoenaed Offune Obiamiwe for Plaintiff's court hearing

Defendant Offune Obiamiwe sat with defendant Santa Monica College Police Officer Ron Marable outside the courtroom prior to the hearing, and when the hearing begain she defamed Plaintiff's character to the Court and Sheriffs deputies in the Courtroom by volunteering false information - not part of the proceeding.. Defendant Offune Obiamiwe acted with actual malice by making that statement in the knowledge that it was false, and in reckless disregard for the truth.

In the Courtroom Offune Obiamiwe defamed Plaintiff's character to the court, Judge Laurence D. Rubin. Offune Obiamiwe then proceeded to tell Judge Laurence Rubin, I quote, "I'm not into women's lib," and she laughed along with Judge Laurence D Rubin who then dismissed her from the courtroom

## APPENDIX F

INTENTIONAL MISREPRESENTATION

(Santa Monica College Police Officer Ron Marable,.)

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There was Misrepresentation by Police officer Ron Marable to the Plaintiff over the statute of limitations for reporting sexual assault. There is scienter ie. A culpable state of mind – either knowledge of the statements falsity or reckless indifference to the truth, which there was in this case, as Police Officer Ron Marable actually defrauded plaintiff by saying she had never made the sexual assault complaint to him which he said to her in March 1998. There was intent to induce Plaintiff's reliance on the misrepresentation, so that Plaintiff would not sue either Larry Jones or Santa Monica College. There was justifiable reliance by the Plaintiff on Police Officer Ron Marable's statement as she trusted Marable's statement, and there was damage to the Plaintiff that stemmed from the reliance on Police Officer Ron Marable's statement that the sexual assault was too old to report - and damage especially as he denied they ever had that conversation later on.

**OBSTRUCTION OF JUSTICE**

**(Santa Monica College Police Officer Ron Marable)**

Defendant Santa Monica College Police Officer Ron Marable's obstruction of justice came in two parts -a) When SMC police officer Ron Marable did not record Plaintiff's complaint about defendant SMC Defendant Instructor R Larry Jones's sexual assault of Plaintiff in November 1996 because defendant SMC police Officer Ron Marable told Plaintiff matter was too old to report b) and when defendant SMC police officer Ron Marable later denied on 17th, March 1998 that Plaintiff had made that sexual assault complaint to him at the SMC police Department in November 1996; or that he had interrogated Plaintiff in detail about defendant R L Jones's sexual assault at that time

## APPENDIX F

When Plaintiff told Santa Monica College Police Officer Ron Marable in November 1996, about defendant R L Jones sexual assault on her in 1994, the sexual assault on her by Defendant R L Jones, was only two and a half years old, and therefore defendant Santa Monica College

Police Officer Ron Marable was not telling the truth to Plaintiff when he said the sexual assault was too old to report.

Even though Defendant Santa Monica College police officer Ron Marable thought that the sexual assault "was too old to record" this did not stop him from interrogating Plaintiff in detail in November 1996, about Defendant R L Jones's sexual assault on her, as Defendant Ron Marable was curious to



find out if what plaintiff was describing to him had been a real sexual assault on her person by defendant R L Jones, and not just a harmless flirtation

**42 USC 1983 DEPRIVATION OF CIVIL RIGHTS - RETALIATION FOR REPORTING SEXUAL ASSAULT - PLAINTIFF BANNED FROM SANTA MONICA COLLEGE WITH NO DUE PROCESS OF LAW UNDER FOURTEENTH AMENDMENT**

(BRENDA SIMMONS - CHIEF EILEEN MILLER - SANTA MONICA COLLEGE - BOARD OF TRUSTEES SANTA MONICA COLLEGE COMMUNITY DISTRICT-)

On April 1st, 1997, five months after plaintiff had reported defendant R L Jones sexual assault to defendant Santa Monica College Police Officer Ron Marable and five months after making a police report about Mary harassing her, Plaintiff received a letter from Brenda Simmons at Santa Monica College **accusing her of something but not stating what she was accused of, see attached Exhibit D.**

Plaintiff responded to the letter asking to know the details, see attached Exhibit E, incorporated by this reference, as Plaintiff had a right to know - what the matter was about before she met with Brenda Simmons of Santa Monica College. But Santa Monica College did not respond and instead prohibited plaintiff from taking classes at Santa Monica College.. .

After Plaintiff met with defendant Brenda Simmons, the ban was lifted, but as Plaintiff was not apprised in advance of her meeting with Brenda Simmons what the meeting was concerning, Santa Monica College barred Plaintiff from receiving education at Santa Monica College without Due Process Of Law, and violated rights guaranteed to the Plaintiff under the fourteenth amendment.

Plaintiff filed a formal written complaint with Santa Monica College Police Chief Eileen Miller in March 1998 against SMC policeman Ron Marable for his cover up, which is **Exhibit G** attached and incorporated by this reference.

The result was that **Exhibit G was disregarded by defendant Santa Monica College Chief of Police Eileen Miller, even though California Penal Code Section 832. 5** (a) states that Santa Monica College Police Department has the responsibility to investigate Plaintiff's complaint against defendant

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Santa Monica College police Officer Ron Marable. CPC 832.5 (a) and the Los Angeles County District Attorney's Office's letter to Plaintiff, Exhibit H, third paragraph, attached and incorporated by this reference, also states that **California State Law requires that Santa Monica College Police Department "establish a procedure to investigate Plaintiff's complaints against their personnel... and...make a written description of the**

**procedure available to the public. And this Santa Monica College et al did not do in 1998.**

**NEGLIGENCE**

**(Piedad Robertson, Robert Sammis, Santa Monica College, Santa Monica College District, Santa**

APPENDIX F

**Monica College Police Department , Santa Monica College Board Of Trustees et al.)**

The defendants behaved carelessly, and failed to appreciate the risks of their negligent conduct when they failed to investigate defendant Ron Marable's obstruction of justice. The defendants have a legal duty requiring the defendants to conduct their employees according to a certain standard so as to avoid unreasonable risk to others, and they failed to conform. There was also proximate cause because there is sufficiently close causal link between the defendant's act of negligence and the harm suffered by the plaintiff in the courtroom where there was actual damage as a result..

Plaintiff set up a meeting with the President of Santa Monica College, Dr. Piedad Robertson in August, 1998, to tell her once more about the instructor's sexual assault of her, and SMC policeman's Marable's cover up of the sexual assault.

On Plaintiff's request defendant Dr. P Robertson, and her office had agreed to an investigation of defendant SMC policeman Ron Marable, and had assigned the investigation to SMC Dr. Robert Adams of student affairs.

Plaintiff met with Dr. Robert Adams two days before Plaintiff met with defendant SMC college President Piedad Robertson in August 1998, and Dr. Adams noted the details that Plaintiff gave him about defendant Ron Marable's obstruction of justice. At this meeting Dr. Adams kept repeating to Plaintiff, "These are very serious charges, very serious charges" over and over again.

Dr. Robert Adams said he would investigate defendant Santa Monica College Police Officer Ron Marable, and said that he would get back to Plaintiff in two weeks.

Two days later after her meeting with Dr. Adams Plaintiff met with defendant SMC College President



Dr. Piedad Robertson. Plaintiff showed her and defendant Robert Sammis Court evidence, attached as Exhibit J, and incorporated by this reference, showing how Plaintiff had been held her up in 1978 by people with armed weapons who had kidnapped her. Plaintiff was lucky to escape with her life.

Plaintiff explained to defendant Santa Monica College President Piedad Robertson that people in responsible positions also commit crimes against others - sometimes, and abuse their positions. Defendant Dr. Piedad Robertson cut Plaintiff off quickly at this point, turning the subject back to the matter at hand, and told Plaintiff that there are usually witnesses to sexual assault, which is not true, and informed Plaintiff that she thought much had been done for plaintiff - as Plaintiff was able to talk about the sexual assault to SM College employees, (one employee cooked and crunched popcorn while they listened to information about the sexual assault!) implying that even though plaintiff had been the victim of sexual assault and obstruction of justice, that Plaintiff should just be satisfied with talking to Santa Monica College employees.

At the meeting defendant Dr. Piedad Robertson was interested to hear what Plaintiff had to say about defendant SMC police officer Ron Marable. She told defendant Robert Sammis of to keep quiet, as he had been making a noise previously to disrupt the meeting as much as he could. Plaintiff asked defendant Dr. Piedad Robertson, "How could police Officer Ron Marable forget in fifteen months that Plaintiff told him Instructor Larry

Jones sexually assaulted Plaintiff, an Instructor and somebody that Marable knows well," Plaintiff said that it would be impossible for Marable to forget.

Defendant SMC college president Dr. Piedad Robertson, as soon as she heard this immediately changed her mind about investigating SMC policeman Ron Marable, and refused to investigate him, telling Plaintiff he had already been investigated. But Plaintiff in August 1998, saw no evidence of an investigation taking place. At this point defendant Dr. Robertson's office began to get chaotic, as Plaintiff told defendant Robertson that Plaintiff had understood that Dr. Adams was investigating Marable - Plaintiff had met with Dr. Adams only two days earlier to give details concerning the investigation of Defendant Ron Marable.. But Defendant Dr. Piedad Robertson was adamant saying loudly, "No he's not." Plaintiff then said, "But I only met with him (Dr. Adams) two days ago, and he said he was going to investigate police officer Ron Marable." Defendant Robertson shouted again, "No he's not," and she called Dr. Robert Adams to come to her office, and he arrived promptly, and Dr.



Piedad Robertson told Dr. Adams not to investigate SMC police officer Ron Marable. Promptly after this Robert Sammis was more than gleeful and threatened Plaintiff with the Santa Monica College Police. (Defendant Dr. Sammis of Santa Monica College wrote the decision that Defendant R L Jones had not sexually assaulted Plaintiff. He had signaled his contempt early in his investigation to Plaintiff- by scheduled his meeting with her on the same day as the Academy Awards in March 1998. Robert Sammis even though he heard the tape of student Offune Obiamiwe at this meeting, and Obiamiwe's complaint about how defendant Instructor R L Jones had been dating his students and photographing

them in the nude, defendant Robert Sammis did not include this evidence in his denial of Plaintiff's claim against the Instructor for sexual assault. )

Defendant Robert Sammis's threatened Plaintiff with the Santa Monica College Police so

she would leave Piedad Robertson's office, even though Plaintiff did not want to stay. Defendant Dr. Robert Sammis began to treat Plaintiff as if she were a criminal in August 1998 which foreshadowed what was to come on October 6th, 1998, with the abusive Abuse Of Process and Police Brutality.[EMPHASIS ADDED]

**Defendant Dr. Piedad Robertson of Santa Monica College also was reluctant to investigate Santa Monica College Police Officer Ron Marable, and by hindering and delaying Plaintiff in this way, also obstructed the course of justice.]**

. 42USC 1983 Deprivation Of Civil Rights Unfair hearing, No Due Process Of Law, Abuse Of Process- 42 USCS 1985 (2) (3) Obstructing justice, intimidating party, witness

MALICIOUS ASSAULT AND BATTERY EXCESSIVE FORCE

(County Of Los Angeles et al, Santa Monica College et al, etc not Sheriff Terry January if he is African American, not Offune Obiamiwe, not Brenda Simmons, not Jo Ann Fielder,)

The police brutality was instigated by 1 Caucasian Sheriff Deputy who Plaintiff can recognize, kicking Plaintiff to the floor and 1-2 others joining him and punching Plaintiff twenty times in soft tissue around her stomach and ribcage area and digging their fingernails into her hands even though Plaintiff had not attacked them, and was not resisting their attack on me, and these three Caucasian

Sheriff Deputies allowed the defendant Santa Monica College Police officer Ron Marable to join in their ceremonial activities by putting his hand on my back as I lay on the floor after they had punched me for two minutes.

**The one Caucasian Sheriff deputy bailiff** currently hidden by the County Of Los Angeles Sheriff's department intended to cause contact and intended to cause fear of the contact. The fear or apprehension was reasonable, and the harmful or offensive contact was imminent.

**Defendant Caucasian Sheriff Deputy intended to cause contact Intent to cause fear of contact And there was harmful contact and the force was not reasonably necessary at all.**

Plaintiff's claim was for emotional injury resulting from police officer Ron Marable's cover up that Plaintiff reported teacher Larry Jones's sexual assault to him, and Defendant Santa Monica College Police Officer Ron Marable's cover up that he interrogated Plaintiff regarding Defendant Instructor R Larry Jones's sexual assault of Plaintiff in November, 1996, Santa Monica College's negligence in not investigating Santa Monica College Police Officer Ron Marable, and defamation of character, as well as Santa Monica College's cover up that Instructor R Larry Jones's sexually assaulted Plaintiff. Santa Monica Case # SM 98 A01 437 was filed 2nd Sept.98. **See Exhibit K1 through K2.**

**42 USC 1983, 42 USC 1985 (2) (3)**

**(County Of Los Angeles Defendants)**

Why did the Court, Judge Laurence D.Rubin, allow Caucasian sheriffs into the courtroom, who beat up Plaintiff, and who are now being hidden?

Why is the Sheriff's Department not telling the truth by saying that Plaintiff was taken to the ground by

## APPENDIX F

African American Sheriff Deputy Bailiff Terry January (Judge Laurence D Rubin's regular daily Sheriff), when it was the described Caucasian sheriff's deputy that took the Plaintiff to the ground? Plaintiff was nowhere near Judge Laurence D Rubin when the 5ft 10in, approx.35 year old, Caucasian muscular Sheriff Deputy with ash blond straight hair, squinty eyes, began to come towards her. Plaintiff tried to give this Caucasian sheriff's deputy three character references Exhibit L, 1,2, 3 when Plaintiff could see a very angry expression had appeared on his face, and his whole body had gone into an attacking mode, where his eyes had closed, and his head was tilted down,

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The first time the Caucasian Sheriff came towards the Plaintiff, Plaintiff tried to give the three character references to him but he refused to take them, the second time the Caucasian Sheriff's deputy moved towards Plaintiff he knocked Plaintiff instantly to the ground. The next thing Plaintiff knew was that Plaintiff was lying face down on the ground, and the Caucasian Sheriff's deputy began twisting Plaintiffs arms behind her. . Then two other sheriff's deputies arrived and began to punch Plaintiff in soft tissue into the side of her body near her rib cage, even though Plaintiff was not resisting this attack on Plaintiff, and was already restrained by this first Caucasian sheriff deputy. Yet they kept punching Plaintiff and punching Plaintiff, about twenty times. The Plaintiff kept saying, "What are you doing? What Are You doing?" The 2-3 Caucasian sheriffs deputies dug their fingernails into the skin of Plaintiff's left hand, twisted her arms and twisted and wrenched her glasses off her face. Please see **Exhibit Q** from "Frame And Lens" Eye Glass company which is evidence that Plaintiff needed to straighten out her glasses on Tueday October 6th, 1998 at around 1 p.m. The punching went on for about two minutes even though plaintiff was not resisting, but still

they kept punching and punching softly into Plaintiff's soft tissue. Towards the end of the beating -even though Plaintiff was on her stomach, Plaintiff turned round and looked up to see that defendant Santa Monica College Policeman Ron Marable had joined in the beating activities, and was holding Plaintiff down with his arm on her back and posing in a war like gesture of winning.

**FALSE ARREST; FALSE SEARCH EXCESSIVE FORCE**

**(All Defendants )**

Plaintiff was then handcuffed, and the sheriff's deputies told Plaintiff she was arrested. Plaintiff told the Caucasian Sheriff's Deputies that she hadn't done anything! . The Caucasian Sheriff's deputy that had knocked her to the ground, and who was one of the Caucasian Sheriff's deputies who had punched her for two minutes told her that, I quote, " You didn't listen!"The Other Caucasian Sheriff's deputies told Plaintiff she was arrested , and that they would be transporting Plaintiff downtown Los Angeles to the county jail. Plaintiff kept repeating, I quote, "I haven't done anything!".

1-10 Sheriff Deputy Does, without a warrant and without probable cause, falsely arrested plaintiff in violation of **plaintiff's Fourth Amendment right to be secure in his person from unreasonable seizure and her Fourteenth Amendment right not to be deprived of his liberty without due**



process of law.

UNLAWFUL DETAINMENT

(Santa Monica College Police Officer Ron Marable, R L Jones, Santa Monica College, Santa Monica College County Of Los Angeles, Judge Laurence Rubin, excluding Sheriff Sherman Moten, Sheriff Terry January (if he is of African American descent, and Sheriff Lee Baca who was not in office until December 1998)

## APPENDIX F

**VIOLATION OF CIVIL RIGHTS UNDER UNITED STATES CONSTITUTION 42 USCS §1983,42 USCS § 1985 (2) (3), 42 USCS §1986, 42 USCS § 1988;MUNICIPAL VIOLATION OF CIVIL RIGHTS; CONSPIRACY TO DEPRIVE PLAINTIFF OF A FAIR AND MEANINGFUL HEARING.**

**(All defendants)**

One Caucasian Sheriff Deputy initiated the police brutality against Plaintiff with first his assault and then battery where he kicked Plaintiff to the ground. Then immediately after - one to two other Caucasian Sheriff's Deputies joined in with the first Caucasian Sheriff's deputy to batter the Plaintiff further while she was on her stomach on the ground, punching her for about two minutes, even though Plaintiff had made no attempt to harm them or even defend herself against their brutality.

The Caucasian Sheriff's deputy tugged metal framed glasses off the Plaintiff's face digging her glasses into her face. Another Sheriff's deputy twisted and dug his fingernails into the back of her left hand, causing bruising. Santa Monica College Police Officer Ron Marable joined in this activity towards the end. One African American Sheriff's deputy female was involved in unlawful seizure of Plaintiff's property, taking her bag, watch, glasses, and three character references from Instructors at Santa Monica College which Judge Laurence Rubin had refused to look at - from Plaintiff's hand, and the same or a different female African American Sheriff conducted an unlawful search of plaintiff's person after the beating was over.

All the other Caucasian sheriff's deputies were involved in the false arrest, by terrorizing the Plaintiff - telling her that she was arrested and would be taken to the LA County Jail, are liable for the Courtroom injuries to Plaintiff alleged in this Complaint.

## APPENDIX F

**Receiving education is a property interest guaranteed under the Constitution. Since**



suspension from College imposed a stigma, my liberty interest was infringed upon in April and May 1997.

Balancing these interests against the state's interests in maintaining order and discipline, the Goss v. Lopez Court (1975) held that due process requires that the student be furnished at least notice of the charges, an explanation of the evidence against him or her, and an opportunity to reply, which did not happen in this case.

**104.** Plainitiff waited outside the holding cell, with aproximately 5 Caucasian Male Sheriffs deputies

**105**. Plainitiff was falsely arrested, falsely searched, no charges were stated, no miranda rights were read, no phone call was offered, no medical help was offered, and Plaintiff was unlawfully detained, jailed for over an hour in the jail next to Judge Laurence Rubin's courtroom.

**106**. The Caucasian Sheriff Deputy Bailiff who had knocked her down had already left the scene.

**107**. Before Plaintiff was incarcerated she was searched by an African American female officer who arrived.

**108.** Plainitiff was never charged with anything. Plaintiff was never taken to County Jail, downtown Los Angeles as threatened by the Caucasian sheriff's deputies who had beaten her up, and Plainitiff was released after an hour.

**109.** After this a very light skinned amenable male African American Sheriff's deputy who had not been involved in the beating came up to the jail and said, to Plaintiff I quote, "I heard you were taken down." He asked Plaintiff what happened, and Plainitiff told him, and he went away for twenty more minutes before he came back and released Plaintiff, saying I quote, "(Judge Laurence Rubin) The Judge said he was sorry!"

110. But as Plaintiff had no record, was in a civil court of law, and had passed a metal detector inspection when Plaintiff entered the Santa Monica Courthouse, Plaintiff certainly should not have been exposed to this Abuse Of Process.

111. Judge Laurence Rubin's judgment dated 6th October, 1998, attached as Exhibit N and incorporated by this reference states that, **"Defendant does not owe any money on plaintiff's claim." But Judge Laurence Rubin did not dismiss this case with prejudice. Judge Laurence D. Rubin closed the case during the proceeding because defendant Marable eventually decided to use "No**



**(Government) Claim" as a defense so as to close the hearing. But this is not apparent in the decision.** Judge Laurence Rubin had not allowed a proper hearing to take place as he had not allowed the plaintiff to cross-examine defendant in his courtroom or vice versa, and didn't mind that he didn't know the case, and so was unable to cross-examine the defendant properly.

ABUSE OF PROCESS

(County Of Los Angeles, Santa Monica Courthouse, County Of Los Angeles, Judge Laurence Rubin, County Of Los Angeles Sheriff's department, 1-10 Caucasian Male Sheriff Deputy Does, Sheriff Deputy Does 1-50, Sheriff Terry January ( NOTE: Only if Deputy January says he was involved!), Santa Monica College, Santa Monica Community College District, Santa Monica College Board Of Trustees et al, Piedad Robertson, Robert Sammis, Santa Monica College Police Department, Chief Eileen Miller, Santa Monica College Police Officer Ron Marable, R.L Jones. Does 1-100)

The California Government claim requirement was not designed to be used, to permit the defendant Ron Marable, Santa Monica College, Santa Monica College Police Department and Santa Monica College District, to

secure an advantage over Plaintiff by allowing a process to continue, a process that Plaintiff would never be able to prevail in - in that she had not met the California Government claim requirement at that time- and especially as that California Government Claim requirement was used later on in that process as a defense and device to close the hearing, and to also nullify or disguise a chance for Plaintiff to have a hearing again in that same court, after she had complied with the Government Claim requirement..

**Defendant Santa Monica College Police Officer Ron Marable concealed from the Plaintiff and the Court, that the Plaintiff had not met the California Government Claim 910 requirement at the beginning of the hearing on October 6th, 1998.**

Defendant Ron Marable continued the proceeding on October 6th, 1998, knowing that the proceeding could have been terminated at the beginning of the hearing because there was no government claim filed by Plaintiff to him or the other defendants, and he used this as a defense to close the hearing later on, when he became apprehensive as Plaintiff wanted to show some evidence!

**PAGE 65**

The defendants concealed the California Government Claim requirement at the beginning of the hearing on October 6th, 1998, for the illegitimate purpose of continuing and controlling the process, using it to surprise and disrupt the hearing, at an opportune moment, and as a device to terminate any further ligitation against the defendants, by making it seem that a legitimate and fair hearing had taken place. Exhibit A attached and incorporated by this reference shows that the Government Claim forms were not filed until December1998 by the Plaintiff.

The California Government claim requirement should not be used as a device by the defendant or the

Court, Judge Laurence D Rubin, to hide that a proper and legitimate process could not take place on October 6th, 1998, as the California Government Claim requirement had not been met by the Plaintiff at that time.

If defendant Santa Monica College Police Officer Ron Marable had revealed there was no government claim filed to the defendants by the Plaintiff at the beginning of the hearing, then no hearing would have occurred on October 6th, 1998.

.The essential element s of ABUSE OF PROCESS are 1) use of legitimate process of the court (2) for an illegitimate purpose. The illegitimate and ulterior purpose of this hearing was to coerce Plaintiff to stop proceedings. The hearing continued when it should not have continued, and was used as a threat and a club, and a form of extortion. And there was a perversion of the process after it was issued. Three or four days after the October 6th, 1998 hearing, Plainitiff remembered that she had been told about seven years ago that Sheriff's beatings of people take place in Judge Laurence Rubin's Small Claims courtroom in Superior Court, Santa Monica Courthouse on a regular basis. The conversation came up because Plaintiff was in Santa Monica Courthouse, and as she walked by Judge Laurence Rubin's courtroom she wondered out loud whether Judge Laurence Rubin was related to Judge Charles Rubin of Beverly Hills Court. **Judge Charles Rubin had given Plaintiff a judgment against Los Angeles County in Beverly Hills Court, Case No 96665 on October 31st, 1989, and Plaintiff wondered out loud - if Judge Charles Rubin and Laurence Rubin were brothers.** This person also informed Plaintiff that Sheriff's Deputies with records of excessive force who gave the beatings in Judge Laurence Rubin's Courtroom were never reprimanded, and always hidden. There was mention of a Sheriff named Chaney who had a long record of excessive

force, who was famous for this.

**HARASSMENT**

Defendant Ron Marable harassed Plaintiff on 22nd December, 1998 while she was on a telephone at Santa Monica College at Stewart Street, and shouted her name out at top volume, and laughed at her as he walked passed her a couple of times. Santa monica college did not take him out of Plaintiff's vicinity even though she complained each time and the College kept installing him in Stewart St knowing he was the cause of police brutality against her.!

**42 USC 1983 42 USC 1985 (2) (3) - DEPRIVATION OF CIVIL RIGHTS - NO DUE PROCESS OF LAW- OBSTRUCTION OF JUSTICE - FAULTY SHERIFFS INVESTIGATION OF INTO CAUCASIAN SHERIFF BRUTALITY (COUNTY OF LOS ANGELES ET AL, SHERIFF SHERMAN MOTEN AND SHERIFF LEE BACA)**

When Plaintiff initially made the police brutality/unlawful detainment complaint on 7th December 1998, in the Santa Monica Courthouse Sheriff's department, 1725 Main St, Santa Monica against 2-3 of Judge Laurence D. Rubin's Santa Monica Courthouse Sheriff's deputy bailiffs, SHERIFF SHERMAN MOTEN EMPLOYEE NO 064827,OF SANTA MONICA COURTHOUSE SHERIFF'S DEPARTMENT REFUSED TO WRITE DOWN (on the Los Angeles County Sheriff's Department Watch Commander's service complaint report form No 69159, **Exhibit X** attached and incorporated by this reference,

**A) that the defendant Santa Monica College policeman Ron Marable had also joined in with the Caucasian Sheriffs deputies bailiffs in beating Plaintiff up,** and that the Caucasian Sheriffs Deputy Bailiffs of Judge Laurence Rubin's courtroom allowed

defendant Santa Monica College Police Officer Ron Marable to join in their police brutality against the Plaintiff by his posing in some kind of war like gesture of winning at the end of the beating by putting his hand on the Plaintiffs back as she lay on the ground. As the Sheriffs were quite happy to allow the defendant Santa Monica College Police Officer Ron Marable to join in the beating this is more evidence that the hearing was a set up, a conspiracy, was preplanned and the Caucasian Sheriff's Deputies were in the Courtroom specifically for the purpose of beating up Plaintiff as she was exposing the corruption of defendant Santa Monica College Police officer Ron Marable and the other Santa Monica College defendants.

**PAGE 67**

B) That one of the Caucasian Sheriff s deputies had dug his fingernails into her left hand, Plaintiff has a photograph, Please see **Exhibit Z108** is also evidence of malicious intent on the part of the Caucasian Sheriff Deputies towards Plaintiff. as she put up no defense against their attack on her.

Sheriff Moten did write these two points down on a separate piece of paper, when Plaintiff insisted, and gave Plaintiff a photocopy attached as **Exhibit XX. BUT SHERIFF SHERMAN MOTEN REFUSED TO SIGN THE PIECE OF PAPER, and through refusing to sign the piece of paper was helping to diminish the extent of Plaintiffs complaint against the Santa Monica Cacausian Sheriff's deputies.** Sheriff Sherman Moten wrote on the piece of paper attached as **Exhibit XX "Ms Bernhardt said that one of the deputies embedded his fingernails into her left hand. She also received a bruise on her right leg at the knee, and suffered internal injuries from the punches, and was falsely arrested, and her glasses were torn from her face. Ms. Bernhardt does not recall the deputies names, however she can identify**

**the deputies involved. Ms. Bernhardt also stated that defendant Ron Marable (Santa Monica College Police) also assisted."**

Plaintiff wrote to Sheriff Lee Baca on 29th, January, 1999 to incorporate Sheriff Sherman Moten's notes, that were part of Plaintiff's complaint into Plaintiff's official complaint against the Sheriff's department., so that the Sheriff's department's investigation would be obliged to investigate defendant Santa Monica College policeman Ron Marable who was allowed to join in - in beating Plaintiff up in Judge Laurence Rubin's courtroom. Also because defendant Santa Monica College police officer Ron Marable was allowed to join in - and did join in with the Sheriff's deputies bailiffs by holding his hand on Plaintiff's back in a war like gesture of winning while Plaintiff was being held on the ground by the Sheriff's deputies bailiffs - and after Plaintiff had just been punched twenty times by the Sheriff's deputies bailiffs, this shows an allegiance and conspiracy between the two departments!

Plaintiff asked Sheriff Lee Baca that her complaint include defendant Santa Monica College policeman Ron Marable's involvement with the Sheriffs deputies bailiffs in beating her up on the main Sheriff's claim form 69159! **And Plaintiff wrote at the end of her letter to him "The diminishing and misrepresentation of my complaint by the Sheriff's Department to exclude defendant Santa Monica College Police Officer Ron Marable's involvement in the police brutality against me on October 6th, 1998, is the same kind of diminishment that occurred at the Santa Monica College**

**PAGE 68**

**Police department when Santa Monica College Police Officer Ron Marable refused to record my complaint about Santa Monica College Instructor**

**Larry Jones sexual assault of me at all, in November 1996, because he said the sexual assault was too old to record! And then later he denied that we ever had that conversation.** Once my complaint is completely and accurately recorded by your office, and I receive a copy that reflects my full complaint, I will be happy to contact whoever needs to be contacted so the investigation can move forward."

As soon as Sheriff Lee Baca received this letter from Plaintiff this is when he quickly closed the investigation of the Caucasian Sheriff's deputies, on 5th February, 1999, **WITHOUT EVEN OFFERING TO SHOW MUG SHOTS TO THE PLAINTIFF OF CAUCASIAN SHERIFF'S DEPUTIES WHO WORK IN SANTA MONICA COURTHOUSE WHO HAVE RECORDS OF EXCESSIVE FORCE. OF COURSE JUDGE LAURENCE RUBIN ALSO KNOWS WHO WAS IN HIS COURTROOM.**

On 29th, January 99 Plaintiff was not happy and was concerned about how the Sheriff's investigation into her complaint against the Caucasian Sheriffs deputies was proceeding, and so she wrote to Sheriff Lee Baca about how Sheriff Sherman Moten had dimished her complaint. The letter is attached as Exhibit -0 Plaintiff informed Sheriff Lee Baca that she was concerned because her complaint against Judge Laurence Rubin's Sheriff's deputies bailiffs and defendant Santa Monica College Police Officer Ron Marable has not been recorded completely or accurately by Sheriff Sherman Moten of Santa Monica Courthouse Sheriff's department, and so it followed that a complete investigation into the police brutality against the Plaintiff could not take place if the complaint had not even been accurately recorded to include all aspects of her complaint i.e. one Sheriff Deputy digging his fingernails into the back of her left hand, and the fact that the Caucasian Sheriffs had allowed the

defendant Santa Monica college Police Officer Ron Marable to join in this beating at the end.

Plaintiff reminded Sheriff Lee Baca that when she spoke to him over the telephone in mid December 1998, Sheriff Lee Baca informed Plaintiff that he wanted to investigate Plaintiff's alleged Santa Monica College police department's corruption that led to the police brutality against the Plaintiff, on 6th October, 1998, in Judge Laurence Rubin's courtroom.

Plaintiff wrote to Sheriff Lee Baca because in December he also had promised her something he was



unable to fulfil.. Sheriff Lee Baca made false and overzealous statements to Plaintiff in December 1998 about being able to investigate Santa Monica College police corruption which is most likely not his jurisdiction. He said it to give the Plaintiff hope but possibly also to lead the investigation away from his own Caucasian Sheriffs deputies, and when Plaintiff told the other Sheriffs at Sheriffs headquarters what Sheriff Lee Baca had told her they emphatically told her what Sheriff Lee Baca told her was not true.

Why is County of Los Angeles Sheriff Lee Baca saying that Plaintiff was in a confrontation with Defendant Deputy Terry January, the regular Sheriff for that Courtroom, when she has had no dealings with Defendant Terry January -at all. **Sheriff's Deputy Terry January however is the perfect candidate to hide the other Caucasian sheriff's deputies who caused the police brutality as he is the regular deputy sheriff for Judge Laurence Rubin's courtroom** according to Sheriff Sherman Moten who Plaintiff made the complaint with in December1998.

Why are the Sheriff's Department fabricating a fictitious story by saying that Santa Monica College Police Officer Ron Marable assisted Deputy January both of

African American decent, in stopping Plaintiff's approach to the judge.

As alleged hereinabove, Defendants, and each of them, engaged in a course of extreme and outrageous conduct, willfully, maliciously, intentionally, and with oppression and willful and conscious disregard of the rights, welfare and safety of the Plaintiff. As alleged hereinabove, Defendants, and each of them, engaged in said conduct with the intent to deprive and/or violate Plaintiff's civil rights and with the intent to cause Plaintiff extreme emotional distress.

Defendants' acts and omissions as hereinbefore alleged proximately caused Plaintiff to sustain great physical and mental pain and shock to her nervous system, fear, anxiety, degradation and extreme emotional distress.

By reason of the wrongful and malicious acts of Defendants, and each of them, who at all times were working within the course and scope of their employment with Defendant governmental entities, Plaintiff sustained severe physical and emotional injuries and has suffered extreme mental and physical anguish.

By reason of the aforementioned acts and omissions of Defendants, and each of them, Plaintiff has



been in pain physically and is still suffering with daily pains in her throat, difficult breathing, weakness, and continue to need treatment in the future for the bodily injuries sustained to her person. The traumatic Court experience has probably taken ten years off her life.

By reason of the aforementioned acts and omissions of Defendants, and each of them, Plaintiff has been prevented from continuing her education and has missed employment opportunities having been ill since October 6th, 1998 to her damage in an amount to be proved at trial.

## APPENDIX F

Plaintiff is informed and believes and thereon alleges that the aforementioned acts and omissions of Defendants were willful, malicious, intentional , oppressive and despicable, and were done in willful and conscious disregard of the rights, welfare and safety of the Plaintiff, and done above and beyond the scope and bounds of their official duties, thereby justifying the award of punitive and exemplary damages against all defendants who are natural persons in their individual capacities in an amount as proved at trial.

WHEREFOR, Plaintiff prays for judgment against all defendants, and each of them, jointly and severally as follows:

1. General damages according to proof,
1. Special damages according to proof,
3. Punitive and exemplary damages according to proof,
4. Costs of suit and attorneys fees under 42 U.S.C. Section 1988
5. Such other and further relief as the court deems just and proper

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__ DATE 7/6/99
ANGELA BERNHARDT
Plaintiff In Pro-per

DEMAND FOR JURY TRIAL

Plaintiff demands trial by jury of all issues properly triable by jury herein against all defendants.

---

DATE 7/6/99
ANGELA BERNHARDT
Plaintiff In Pro Per

## APPENDIX F
## EXHIBITS ATTACHED TO ORIGINAL COMPLAINT

**RECOMMENDED GOVERNMENT CODE SECTION 910 & 910.2 CLAIM & LATE CLAIM TO SANTA MONICA COLLEGE ET AL – DATE 26, JAN 99. (SENT ALSO 12TH DECEMBER 1998)**

**(LOCATION IN RECORD - EXHIBIT A1 & A2,** 9TH US COURT OF APPEALS EXCERPT OF THE RECORD VOLUME 1- Page No 33 & 34.)

RECOMMENDED CLAIM FORM GOVERNMENT CODE SECTION 910 & 910.2 CHAPTER 1

To Secretary Board Of Trustees Of The Santa Monica Community College District 1900 Picc Boulevard Santa Monica CA 90405-1628

Refer Answer to: Angela Bernhardt P.O.Box 480509, Los Angeles 90048. California.

Name Of Claimant - Angela Bernhardt

Telephone (310) 281 3092

Who Instructor [-R] Larry Jones When did damage or injury occur?

**1. June, July 1994. Sexual Assault,**

**2. November 1996, Defamation Of Character intentional infliction of emotional distress.**

How did damages or injuries occur? Give full details.

**SEXUAL ASSAULT-JUNE OR JULY 1994.**

## APPENDIX F

## RECOMMENDED GOVERNMENT CODE SECTION 910 & 910.2 CLAIM & LATE CLAIM TO SANTA MONICA COLLEGE ET AL – DATE 26, JAN 99. (SENT ALSO 12TH DECEMBER 1998)

I was a student in Instructor [ R] Larry Jones's color printing class and felt something hard on my behind, and when I turned aound I found it was Instructor [ R] Larry Jones with his hard genitals pressed up against me. He moved off me quickly when I turned around and saw that it was him.

The next day [ R] Larry Jones made a reversal joke in front of other students in the color printing class who were standing near him. He said to me jokingly, "Are you touching me again!" I was standing a few feet away from

him when he made this reversal joke ! So I replied, "Yes I'm getting you back for you touching me yesterday." And even though I was nowhere near him I answered him in this way so as to inform me not to sexually assault me again!

**DEFAMATION OF CHARACTER - NOVEMBER - 1996**

Santa Monica College Instructor Larry Jones began to tell untruths about me to Santa Monica College Police Officer Ron Marable over the phone in November 1996, while I was n the Santa Monica College Investigator Ron Marable's office.

What particular Act or Ommission on the part of the School District officers or employees cause the injury or damage?

**Santa Monica College Employee Instructor [R.] Larry Jones**

**Act 1 - Sexual Assault Santa Monica College Instructor [R] Larry Jones's sexually assaulted me in his photo 50 color printing class in 1994.**

## APPENDIX F

## RECOMMENDED GOVERNMENT CODE SECTION 910 & 910.2 CLAIM & LATE CLAIM TO SANTA MONICA COLLEGE ET AL – DATE 26, JAN 99. (SENT ALSO 12TH DECEMBER 1998)

**Act 2 - Defamation of Character Santa Monica College Instructor Larry Jones began to tell untruths about me to Santa Monica College Police Officer Ron Marable over the telephone in November 1996** while I was in the Santa Monica College Investigator Ron Marable's office.

Santa Monica College Employee Police Officer Ron Marable

**Act 3 -Obstruction Of Justice Santa Monica College Police Officer Ron Marable** obstructed justice- when he did not record my complaint about Santa Monica College Instructor Larry Jones's sexual assault of me in November 1996, as he told me the matter was too old to report in November 1996, and then he later denied in March 1998 that I had made that sexual assault to him at the Santa Monica College police department in November 1996, or that he (Santa Monica College Police Officer Ron Marable ) had interrogated me in detail about instructor, Larry Jones's sexual assault of me in November 1996, to establish for himself that it was a sexual assault violation that I was reporting, which in November 1996 Marable said it was!

**Act 4 Denial Of Obstruction Of Justice Santa Monica College Police Officer Ron Marable** continued denial of his obstruction of justice in Judge Laurence Rubin's Santa Monica Courtroom R has caused much harm to me. He has not protected and served me, but has tresspassed against me, and has inspired police brutality against me!

**Act 5 Police Corruption Denial Of Police Corruption Causes Police Brutality Santa Monica**

## APPENDIX F

## RECOMMENDED GOVERNMENT CODE SECTION 910 & 910.2 CLAIM & LATE CLAIM TO SANTA MONICA COLLEGE ET AL – DATE 26, JAN 99. (SENT ALSO 12TH DECEMBER 1998)

**College Police Officer Ron Marable's** denial that he has obstructed justice, is a direct cause of the police brutality that errupted against me in Judge Laurence Rubin's courtroom.

**Act 6 Police Brutality Santa Monica College's Police Officer Ron Marable** joined the "Rodney King Style" beating activities against me in Judge Laurence D Rubin's Courtroom R on 6th October 1998.

END OF PAGE

(LOCATION - DISTRICT COURT DOCKET 1 EXHIBIT A 2 1 OR 9TH US COURT OF APPEALS EXCERPT OF THE RECORD VOLUME 1- Page No 34).

Santa Monica College

**Act 7 A biased Santa Monica College investigation into Santa Monica College Instructor [R] Larry Jones's sexual assault of me.** The Santa Monica College investigation into Instructor [R] Larry Jones's sexual assault of me was in bad faith, and the investigation MISREPRESENTED MY CASE by DISTORTING THE LOCATION OF THE SEXUAL ASSAULT which was the photography lab's color filter table, and the investigation OMITTING EVIDENCE by not taking into consideration Instructor [R] Larry Jones innappropriate behavior towards other female students i.e. dating student Marissa from his classes, and asking, many students including Offune Obianewe to pose nude in his photographic shoots on the Santa Monica College campus. I provided this evidence and **Dr. Adams and Dr.**

## APPENDIX F

## RECOMMENDED GOVERNMENT CODE SECTION 910 & 910.2 CLAIM & LATE CLAIM TO SANTA MONICA COLLEGE ET AL – DATE 26, JAN 99. (SENT ALSO 12TH DECEMBER 1998)

**Sammis** hard the tape okf this evidence which included student Offune Obianewe, who was approached by Instructor [R] Larry Jones girlfriend Marisa to pose nude for Instructor Larry Jones for a shoot he was holding on campus, but this tape was omitted from the documentation and evidence of the in - house investigation into Instructor {R] Larry Jones's sexual assault of me.

What damage or injuries do [you] claim resulted?

1. Trauma. 2. Humiliation/abasement 2) Emotional distress 3) Santa Monica College's investigation into Instructor Larry Jones sexual assault of me only caused more harm, as it covered up Instructor Larry Jones sexual assault of me by distorting and omitting facts rather than seeking the facts impartially. 4) Instructor Larry Jones's sexual assault of me also in part caused Santa Monica Colleg police officer Ron Marable's cover up which later led to police brutality against me in Judge Laurence Rubin's Santa Monica Courtroom of which Marable was also a part of. 9) Punitive Damages 10) Attorney's fees.

Civil Rights Violations

42 U S C. 1981 - Equal Rights Under The Law. 42 USC 1983 Deprivation Of Civil Rights 42 USC 1985 Conspiracy to Interfere with Civil Rights, and 42 USC 1988 Attorney's Fees.

## APPENDIX F

## RECOMMENDED GOVERNMENT CODE SECTION 910 & 910.2 CLAIM & LATE CLAIM TO SANTA MONICA COLLEGE ET AL – DATE 26, JAN 99. (SENT ALSO 12TH DECEMBER 1998)

What sum do you claim? $1, 000, 000 - 00 cents

26th Jan 99 A Bernhardt

Section 72 of the Penal Code ...

, To The Santa Monica College and/or District Board Of Trustees: Application For Leave To Present Late Claims

This is an application for leave to present a late claim pursuant to California Government Code 911.4 a) for obstruction of justice by Santa Monica College Police Officer Ron Marable. The date of discovery of Santa Monica College Ron Marable's obstruction of justice was 17th March 1998, when I discovered that he had covered up that I had reported Santa Monica college Instructor [R] Larry Jones sexual assault of me to him in November 1996. On March 17th 98 and 20th March 1998, I made complaints in wdriting to Chief Of Santa Monica College Police Eileen Miller about Marable's obstruction of justice, and later in July 1998 to Dr. Piedad Robertson's office.

The failure to present a Government claim earlier for obstruction of justice by Santa Monica Government Code 911.6 (b) (1), and the Board Of Trustees and Santa Monica College & District is not prejudiced by my making the claim now. **Under California Government Code 911.4 (b). This application is presented within one year after the accrual of the cause cause of action - for obstruction of justice which accrued on 17th March 1998,.** California Civil Doed Of Procedure 338 is a three year statutory liability exception for fraud or

mistake. CCP 338 (4) grants relief on the grounds of fraud or mistake. The cause of action for obstruction of justice then is not to be deemed to have accrued until the discovery by the aggrieved party of the facts constituting the fraud or mistake, i.e. I did not discover Santa Monica College Police Officer Ron Marable's obstruction of justice/fraud until March 17th 1998.

This is also an application for leave to present a late claim pursuant to California Government Code 911.4 a) for sexual assault by Santa Monica College Instructor Larry Jones. I did not report the sexual assault in 1994, and in hindsight that was a mistake. California Civil Code Of, Procedure 338 is a three year statutory liability exception for fraud and mistake, and CCp 338 (4) gives relief on the grounds of fraud or mistake. The cause of that case is not deemed to have accrued until the discovery by the aggrieved party of the facts constituting the fraud or mistake. I.e. I did not realize my mistake in not reporting Instructor [R] Larry Jones for his sexual assault of me until November 1996 in Santa Monica College Police Officer Ron Marable's office - when I found intentional infliction of emotional distress based on the **continuing conduct [emphasis added] of Instructor [R] Larry Jones, and so I reported him at that time for his earlier sexual assault of me, but at that point Santa Monica Police Officer Ron Marable on hearing about Instructor [R] Larry Jones's sexual assault of me, misrepresented the statute to me by saying [R] Larry Jones sexual assault of me was too old for him to report, and so he sasid he could not take**

**down a report, and then later Marable fraudulently concealed that I had reported Instructor [R] Larry Jones's sexual assault to him at that time. Thus because of Santa Monica College Police Officer's fraudulent concealment and misrepresentation, the statute is tolled during Police Officer Ron Marable's misconduct i.e. from November 1996 to date.**

**26th Jan 1999 A Bernhardt**

**APPENDIX F**

**EXHIBITS FROM ORIGINAL COMPLAINT DISTRICT COURT DOCKET 1 –COMPLAINT EXHIBIT C1, & C2 OR [NINTH CIRCUIT EXCERPT FROM THE RECORD VOLUME 1 PAGE 49 AND 50]**

**SANTA MONICA COLLEGE POLICE DEPARTMENT**

**INCIDENT REPORT CASE NO 960712 –**

RELATED NO. 96-11-25-23010

**DATE AND TIME NOV 25TH 1996 – 11.54 AM**

UNKNOWN SUPSECT –HEAVY BUILD – FIRST NAME OF MARY - ASSIGNED BY AGARD –

**REPORTING OFFICER – [RON] MARABLE ID NO. O2**

**[omitted]**

**"...[R.L.] JONES RESTRICTED ANGELA AND MARY'S LAB PRIVILEGES FOR THE REMAINDER OF THE SEMESTER ANGELA PROCEEDED TO DROP THE PHOTOGRAPHY CLASSES..."**

**[omitted]**

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**APPENDIX F**

**EXHIBITS FROM ORIGINAL COMPLAINT**

**Complaint - District Court Docket 1 –Exhibit D**

**Or USCA 9TH Excerpt Of The Record –Volume 1- Page 52**

**APRIL 1ST 1997**

From Santa Monica College

To Angela Bernhardt
P.O.Box 480509
Los Angeles CA 90048

Dear Ms Bernhardt:

It has come to my attention that you may have violated the Santa Monica College Student Conduct Code.

In order to clarify this matter I am requesting that you make an appointment with me as soon as possible. Please call (310) 450 5150 extension 9880 to set up an appointment.

Failure to meet with me may result in further disciplinary action such as having a hold placed on your records at Santa Monica College.

Yours Sincerely Brenda Simmons,

Associate Dean Admissions and Records.
CC E Miller SMC Police.

Santa Monica Community College District, 1900 Pico Blvd Santa Monica CA-90405-1628 (310) 450 5150
Piedad Robertson Superintendent and President

**APPENDIX F**

**EXHIBITS FROM ORIGINAL COMPLAINT**
**District Court Docket 1 Exhibit G1 & G2, or**
**USCA9th Excerpt Of The Record**
**Volume 1, Page 55 & 56**

**DOCUMENT - Letter to Santa Monica College Chief Of Police Department regarding Santa Monica College Police Cover Up Of petitioner's Sexual Assault complaint against a Santa Monica College Instructor.**

**20th March 1998**

Angela Bernhardt
P.O.Box 480509
Los Angeles 90048
(310) 281 3092

To Chief Eileen Miller
Santa Monica College Police
Pearl Street
Santa Monica

20th March 1998

This is a complaint about Officer Ron Marable, because as you know I met with him last week, and discovered he is concealing the truth about our two meetings in November 1996, and is denying that I informed him in November 1996 verbally that Larry Jones a faculty member at Santa Monica College, sexually assaulted me.

The reason I spoke to Officer Ron Marable in November 1996, about Larry Jones's sexual assault of me was

## APPENDIX F

## EXHIBITS FROM ORIGINAL COMPLAINT

**DOCUMENT - Letter to Santa Monica College Chief Of Police Department regarding Santa Monica College Police Cover Up Of petitioner's Sexual Assault complaint against a Santa Monica College Instructor.**

because I was making a police report against Mary Naffziger, a female student, for harassment. Larry Jones was contacted in order to find out Mary's Naffziger's last name, because at the time I did not know it. That is why Larry Jones became involved.

When I told Officer Marable at that time in November 1996, that Instructor Larry Jones had sexually assaulted me, Officer Marable questioned me in order to determine if Larry Jones had sexually assaulted me, as Officer Ron Marable was interested to find out that my complaint against Instructor Larry Jones was indeed sexual harassment, and not merely a harmless flirtation. After hearing me describe Larry Jones's' sexual assault on me, Officer Ron Marable agreed it was sexual assault, and said he could not take a report about the sexual assault – as the matter was too old. Officer Ron Marable suggested that I report the sexual assault complaint against Larry Jones to the administration on campus.

I contacted Ron Marable last week to determine whether he remembered our discussions in November 1996, about Larry Jones sexually assaulting me, and he told me he remembered our discussions clearly, but said there were no discussions about Larry Jones's sexual assault of me. So Ron Marable is not telling the truth here, so as to cover up for his friend Larry Jones!

Ron Marable also asked me in our meeting last week what could Larry Jones's have said to him (Ron Marable) (in November 1996) that Larry Jones's had sexually

## APPENDIX F

**EXHIBITS FROM ORIGINAL COMPLAINT**

**DOCUMENT - Letter to Santa Monica College Chief Of Police Department regarding Santa Monica College Police Cover Up Of petitioner's Sexual Assault complaint against a Santa Monica College Instructor.**

assaulted me after he (Ron Marable) had spoken to Larry Jones over the phone while I was there in Ron Marable's officer in November 1996 [omitted]

The answer to Officer Ron Marable's question is this – when Larry Jones in November 1996 began togive Officer Marable information over the telephone about Mary's harassment of me in a computer lab in November 1996 that Larry Jones had not witnessed and was neither in his jurisdiction while I was sitting in Ron Marable's office, I reported Larry Jones's earlier sexual assault of me to Ron Marable, because the sexual assault had happened, and because Larry Jones was poking his nose into my business again, JUST AS HE HAD EARLIER –POKED HIS PRIVATE PARTS INTO MY PRIVATE BUSINESS, AND I HAD HAD ENOUGH OF IT!

This complaint against Officer Ron Marable is because he is concealing the fact that I informed him in November 1996 that Larry Jones sexually assaulted me, and because he is concealing this, it may also follow that Officer Ron Marable and Larry Jones wanted to, and helped to malign my character to Brenda Simmon's office in Admissions for my formal police complaint against Mary Naffziger harassing me, and cause me more problems there![Omitted]

Sincerely Angela Bernhardt

CC. Dr. Robert Sammis

CC. Dr. Robert Adams.

## APPENDIX F

**Document - Letter from Santa Monica College Vice President Of Human Resources Robert L Sammis July 27th 1998 – To Angela Bernhardt petitioner.**

**EXHIBITS FROM ORIGINAL COMPLAINT**
**District Court Docket 1 –Exhibit I**
**Or USCA 9TH Excerpt Of The Record –Volume 1- 59**

From Santa Monica College
To Angela Bernhardt
P.O.Box 480509 Los Angeles CA 90048

Dear Ms Bernhardt:

It has come to my attention that you have contacted the District's President/Superintendent in order to arrange a meeting, with the President/Superintendent concerning your sexual harassment complaint.

**[omitted & COMPLAINT AGAINST SANTA MONICA COLLEGE POLICE OFFICER RON MARABLE)**

On or about May 11th 1998 you received a letter from the President of the Board Of Trustees Nancy Cattel [Luckenbach] advising you that the Board of Trustees reviewed your written appeal and concurred with the administrative review of your complaint. Also the letter informed you that the Board Of Trustee's had completed review of your complaint and advised you that you may file a petition for review with the Chancellor of the California Community Colleges. Please be advised that the District will not review your complaint any further. Sincerely Robert L. SammisVice President Human Resources.

## APPENDIX F
## EXHIBITS FROM ORIGINAL COMPLAINT

Santa Monica Community College District, 1900 Pico Blvd Santa Monica CA-90405-1628 (310) 450 5150
Piedad Robertson Superintendent and President

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**EXHIBITS FROM ORIGINAL COMPLAINT DOCUMENT – CHARACTER REFERENCE BY JOSH KANIN**

District court docket 1 Exhibit L1,
or USCA 9th Excerpt Of the Record Volume 1, Page 63

September 24th 1998

To Whom It May Concern:

I am a full time Instructor in the Department of Communications at Santa Monica College. Angela Bernhardt was a student in several of my Cinema Classes, that were taught over the past couple of years.

In all of my dealings with her within SMC's academic community, I have found her to be likeable, honest,and hardworking. I can fully attest to the strength of her character, to her high moral and ethical standards, and to her overall personal integrity. She is that rare individual that I would place a great deal of trust in.

If you would like any further explanation of these comments, please feel free to contact me at (310) 285 – 8520.

September 24th 1998

## APPENDIX F
## EXHIBITS FROM ORIGINAL COMPLAINT DOCUMENT – CHARACTER REFERENCE BY JOSH KANIN

District court docket 1 Exhibit L1,
or USCA 9th Excerpt Of the Record Volume 1, Page 63

September 24th 1998

Sincerely

Josh Kanin
Professor Cinema
Department Of Communications
Santa Monica College

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**APPENDIX - F**

**DOCUMENT - MEMORANDUM TO HON LAURENCE D RUBIN SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES WEST DISTRICT FROM CANDACE D. COOPER SUPERVISING JUDGE**

**EXHIBITS FROM ORIGINAL COMPLAINT**
[District Court 1 – complaint - Exhibit M, or USCA 9TH Circuit Excerpt Of The Record Volume 1 –Page 66]

CANDACE D. COOPER
SUPERVISING JUDGE.
1725 MAIN STREET
SANTA MONICA CA 90401
(310) 260 3762

MEMORANDUM

TO: Hon Laurence Rubin
Ms. Lois Teitz

From Candace D Cooper, Supervising/ Presiding Judge

DATE: December 1, 1998

**RE: Angela Bernhardt vs. Ron Marable, Police Department Of Santa Monica College, Santa Monica College SM98A01437**

## APPENDIX F

**MEMORANDUM TO HON LAURENCE D RUBIN**
**SUPERIOR COURT OF CALIFORNIA**
**COUNTY OF LOS ANGELES WEST DISTRICT**
**CANDACE D. COOPER**
**SUPERVISING JUDGE.**

**Ms. Bernhardt was the plaintiff in the above entitled Small Claims Action**, heard in by Judge Laurence Rubin on Oct 6 1998. In correspondence to the Court, MS. Bernhardt has requested the return of a document believed to remain in possession of the Court. Ms. Bernhardt describes the item as follows: Copy Of Police Report.

1725 MAIN STREET
SANTA MONICA CA 90401

Please check the file of this action and return the copy of the Police report, if located, to Ms Bernhardt at the following address:

Ms. Angela Bernhardt
P.O.Box 480509 Los Angeles California 90048.
Thanks for your attention to this request.

## APPENDIX F

**EXHIBITS FROM ORIGINAL COMPLAINT SHERIFF LEROY D BACA'S LETTER TO ANGELA BERNHARDT REGARDING COUNTY OF LOS ANGELES SHERIFF'S INVESTIGATION OF PETITIONER'S ALLEGED ASSAULT AND BATTERY/EXCESSIVE FORCE AND FALSE ARREST COMPLAINT AGAINST THE CAUCASIAN SHERIFFS.**

**Note: LOCATION OF EXHIBIT - District Court Docket 1 – Exhibit P1 P1 & (Ninth Circuit Excerpt Of Record V1 – Page 71)**

County Of Los Angeles Sheriff's Department
Headquarters 4700 Ramona Boulevard Monterey Park California 91754-2169 Leroy D Baca Sheriff
February 5th 1999

Ms. Angela Bernhardt
P.O. Box 480509 Los Angeles California 90048

Dear Ms. Bernhardt
On Dec 7th 1998, you filed a complaint regarding the actions of Sheriff's Department personnel who are assigned to Court Services West Bureau, Santa Monica Branch. In your complaint, you allege that on Oct 6th 1998, an unidentified Caucasian male bailiff at the Santa Monica Branch kicked your legs from underneath you and forced you to the floor of the courtroom. You further allege that the unidentified bailiff was then joined by two other Caucasian male deputies who struck your body with their fists approximately twenty times before they took you into custody. I instructed Court Services west bureau captain Irene McReynolds to investigate your complaint, since the personnel involved are assigned to her command. Captain

## APPENDIX F

## COUNTY OF LOS ANGELES SHERIFF LEROY D BACA'S LETTER TO ANGELA BERNHARDT REGARDING THE COUNTY OF LOS ANGELES SHERIFF'S INVESTIGATION OF ALLEGED ASSAULT AND BATTERY OF HER, EXCESSIVE FORCE AND FALSE ARREST COMPLAINT AGAINST THE COUNTY OF LOS ANGELES SHERIFF'S DEPARTMENT ET AL.

**SHERIFF'S LETTER ATTACHED TO ORIGINAL COMPLAINT**

**[Note: LOCATION OF EXHIBIT - District Court Docket 1 – Exhibit P1 & (Ninth Circuit Excerpt Of Record V1 – Page 71]**

McReynolds has completed her investigation and I have reviewed the results.Our investigation revealed that on Oct 6th 1998, you appeared before Judge Rubin in Department R of the Santa Monica Superior Court as the plaintiff in a Small Claims matter. After the judge rendered a decision that.was not favorable to you, it became necessary for the bailiff, Deputy Terry January to stop you after you ignored his verbal instructions to halt your approach to the judge Our investigation also revealed that when Deputy January positioned himself in a manner that created a physical barrier between you and the judge, you tried to push your way past him. Your action created the need for Deputy January to physically restrain you. Your refusal to obey Deputy January's instructions, your physical efforts to circumvent his attempts to stop your advance and your physical resistance of his efforts to restrain you made it necessary for him to use the amount of force reasonably necessary to detain you.

A Tradition of Service

**Page 2**

Ms. Angela Bernhardt February 5th 1999

## APPENDIX F

## EXHIBITS FROM ORIGINAL COMPLAINT COUNTY OF LOS ANGELES SHERIFF LEROY D BACA'S LETTER TO ANGELA BERNHARDT REGARDING SHERIFF'S INVESTIGATION OF HER ALLEGED ASSAULT AND BATTERY - EXCESSIVE FORCE AND FALSE ARREST COMPLAINT AGAINST THE COUNTY OF LOS ANGELES SHERIFFS.

**(Note: Location oF Exhibit - Original Complaint - District Court Docket 1- Exhibit P2)(Ninth Circuit Excerpt Of Record V1 – Page 72)**

Although our investigation revealed that you were taken to the ground by Deputy January during his effort to restrain you, there is no evidence to support your allegation that you were struck or punched during this incident. **Finally, our investigation revealed no evidence to corroborate your allegation that three Caucasian male sheriffs deputies were involved in the effort to detain you. It should be noted** that both **Deputy January** and the Santa Monica police officer who assisted Deputy January are **of African – American descent.** In essence, our investigation revealed no evidence to substantiate your allegation of misconduct against the Sheriff's personnel who detained you. In light of these factors, it appears that your complaint does not warrant further action at this time.

I appreciate your having brought this matter to my attention. Ensuring the proper performance of Sheriff's Department personnel is my top priority and I welcome the opportunity to evaluate their conduct.

The Sheriff's department is concerned about public confidence in its investigation of public complaints. ... [omitted] Sincerely, Lee Baca Leroy D Baca Sheriff

## APPENDIX - F

**EXHIBITS FROM THE RECORD**
**Santa Monica College Administrative Determination and Summary of Investigation into Allegations of Sexual Harassment - Angela Bernhardt**

**[Note: Location Of Exhibit in record - District Court Docket 14 Exhibit I1**
**Ninth Circuit Excerpt Of The Record Volume 1 page 98**
**Santa Monica College]**

Memorandum

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HUMAN RESOURCES OFFICE

TO: Ms. Angela Bernhardt
Santa Monica College

FROM: Robert L. Sammis J.D.
Vice President, Human Resources

DATE: February 9, 1998

SUBJECT: **Administrative Determination and Summary of Investigation into Allegations of Sexual Harassment - Angela Bernhardt**

1. The attached documentation is a summary of the investigation report into the formal complaint of harassment submitted by you which you alleged harassment by Mr. Larry Jones, an instructor within the Art Department. This summary report is being provided

## APPENDIX F

**Santa Monica College Administrative Determination and Summary of Investigation into Allegations of Sexual Harassment – Angela Bernhardt**

**[Note: Location Of Exhibit in record - District Court Docket 14 Exhibit I1**

**Ninth Circuit Excerpt Of The Record Volume 1 page 98**

**Santa Monica College]**

2. to you in accordance with Section 2 D of Administrative Regulation 4112.2f of the Diversity/Affirmative Action

3. Plan for Santa Monica Community College District dated 1995, copy at Attachment. It has been determined per the attached investigation summary that no action in violation of the District's policies and procedures regarding discrimination and harassment has occurred and the recommendations specified in the report will be implemented.

4. You have the right to appeal to the District's governing Board and the Chancellor pursuant to California Code Of Regulations, Title V, Section 59338, within fifteen (15) days upon receipt of the determination, copy at attachement. [Please Note: No Copy at attachment] This appeal must be submitted in writing. The Board will review the original complaint, the investigative report, the administrative determination and the appeal and issue a final decision within forty-five

5. (45) days. A copy will be provided to you. If the Board does not act within the 45 day period, the administrative

6. determination shall be deemed approved and shall become the final decision in the matter.

## APPENDIX F

**Santa Monica College Administrative Determination and Summary of Investigation into Allegations of Sexual Harassment – Angela Bernhardt**

**[Note: Location Of Exhibit in record - District Court Docket 14 Exhibit I1 Ninth Circuit Excerpt Of The Record Volume 1 page 98 Santa Monica College]**

7. At any time during the District's process, you also have the right to file a complaint with the Department of Education, Office Of Civil Rights, in accordance with Title IX of the Education Amendments of 1972. The address and telephone number are as follows:

FILED APRIL 27TH 99 AT 1.33P.M.

**Summary of the Investigation into allegations of Sexual Harassment Against Mr. [R] Larry Jones, Instructor, Art Department, by Ms. Angela Bernhardt, Student**

**1. Ms Angela Bernhardt, a current student at Santa Monica College, made a statement in a May 28th, 1997 letter to Ms. Brenda Simmons, Associate Dean, Admissions and Records, regarding a possible disciplinary action involving a conflict with another student that she had been sexually harassed by Mr. Larry Jones, and instructor in the Art Department (See Attachment A). Her statement is quoted in part: " [R] Larry Jones also condones harassment of students, as I have been sexually harassed by him in his Photo 50 class."**

## APPENDIX F

## EXHIBITS FROM THE RECORD

**Santa Monica College Administrative Determination and Summary of Investigation into Allegations of Sexual Harassment – Angela Bernhardt**

**[Note: Location Of Exhibit in record - District Court Docket 14 Exhibit I1 Ninth Circuit Excerpt Of The Record Volume 1 page 98**

II. **Investigation Interviews and Summaries** The following individuals were interviewed in conjunction wth this investigation.

a. Ms. Angela Bernhardt, student, Sept 17 & 19, 1997.
b. Mr. Larry Jones, Instructor, Art Department, September 29th 1997.
c. Dr. Dorothy Gelvin, Dean, Personnel, Sept 9th 1997
d. Mr. Daniel Cano, Dean, Admissions and Records, September 10th 1997

**[{NOTE: SANTA MONICA COLLEGE POLICE OFFICER RON MARABLE WAS NOT INTERVIEWED]**

III Key Factual Findings Of The Investigation

a. Ms. Bernhardt did not file a complaint or inform District personnel of the alleged sexual harassment alluded to in her statement of May 28th 1997.

**[NOTE: PETITIONER HAS ALLEGED SHE REPORTED THE COMPLAINT TO SANTA MONICA COLLEGE POLICE OFFICER RON MARABLE ON NOV 25TH 1996]**

## APPENDIX F

## EXHIBITS FROM THE RECORD

**Santa Monica College Administrative Determination and Summary of Investigation into Allegations of Sexual Harassment – Angela Bernhardt**

**[Note: Location Of Exhibit in record - District Court Docket 14 Exhibit I1 Ninth Circuit Excerpt Of The Record Volume 1 page 98**

b. There were other students in the class during the alleged incident but Ms. Bernhardt was unaware that they observed or heard anything concerning the situation.

**[Note: Class was a Photographic darkroom]**

c. Mr. Jones categorically denies having any contact with Ms. Bernhardt or behaving in any way that could be construed as sexually harassing while she was a student in his class or otherwise.

e. There are no witnesses to the alleged incident.

IV. Conclusions

As a result of the investigation information provided it has been concluded that:

a There is no information or evidence to corroborate or substantiate the incident alleged by Ms. Bernhardt.

b. There is no evidence to infer that the District's policy of non-discrimination and harassment have been violated.

v. Recommendations

## APPENDIX F

**Administrative Determination and Summary of Investigation into Allegations of Sexual Harassment – Angela Bernhardt**

The goal of any investigation of possible violations of District Policies and procedures is to stop the negative action behavior and find a workable solution for the good of the individuals involved and the organization. The following recommendations are based upon the information obtained during the conduct of the investigation.

A. Ms. Bernhardt and Mr. Jones to be informed of the District's policy against discrimination and harassment and the options and reporting procedures available to staff and students when such incidents should occur.

B. Ms. Bernhardt and Mr. Jones to be provided copies of the information folder on sexual harassment from the State Department Of Fair Employment and Housing and the no discrimination and harassment folder distributed by the Santa Monica Community College District.

C. This investigation document remain active and be closed one (1) year following the document date with file retention to be not more than three (3) years.

**[LOCATION OF DOCUMENT - District Docket 14 Exhibit I 2 & I 3**

**Ninth Circuit Excerpt From The Record Volume 1 Page 99 & 100]**

## APPENDIX F

## EXHIBITS FROM THE RECORD

## RESULTS OF SANTA MONICA COLLEGE'S SEXUAL HARASSMENT AND UNLAWFUL DISCRIMINATION INVESTIGATION

**[Location Of Document] District Court Docket 14 Exhibit J ]& [Ninth Circuit Excerpt Of The Record Volume 1 Page 101]**

CONFIDENTIAL

Santa Monica College

November 3, 1997

Ms. Angela Bernhardt

P.O. Box 480509

Los Angeles, California 90048

Dear Ms. Bernhardt

In accordance with paragraph 2B of Santa Monica Community College District's (SMCCD) Administrative Regulation 4112.2f, Unlawful Discrimination, Affirmative Action, Title IX and Sexual Harassment Complaint procedures for Job Applicants, Employees and Students, and investigation was conducted into your allegation of sexual harassment, dated June 16th 1997, by Mr. Larry Jones, and instructor within the Art department. The results of the investigation determined there was no violations of the District's policy against unlawful discrimination, to include sexual harassment and a one (1) time occurrence of an action, where the individual was put on notice about the incident, does not constitute harassment. A copy of the complete investigation is on file within the Human Resources Office.

The SMCCD is committed to an environment free of unlawful discriminatory and harassment practices and encourages its faculty, staff and students to report such occurrences in a timely fashion, or as soon as possible to

## APPENDIX – F

## RESULTS OF SANTA MONICA COLLEGE'S SEXUAL HARASSMENT AND UNLAWFUL DISCRIMINATION INVESTIGATION

**[Note: Location Of Document] District Court Docket 14 Exhibit J ]& [Ninth Circuit Excerpt Of The Record Volume 1 Page 101]**

appropriate District authority. Enclosed for your information, please find a copy of the SMCCD brochure on unlawful discrimination, and the California Department of Fair Employment and Housing's brochure on sexual harassment.

Please contact me at 310 -452 9361 if you have questions or require additional information regarding this correspondence.

Sincerely

Jo Ann R Fielder Assistant Dean, Equal Employment Opportunity Diversity

Santa Monica Community College District, 1900 Pico Blvd Santa Monica CA-90405-1628 (310) 450 5150

Piedad Robertson Superintendent and President

**[ Note: LOCATION OF DOCUMENT - District Court Docket 14 Exhibit J Ninth Circuit Excerpt Of The Record Volume 1 Page 101]**

**APPENDIX F**
**EXHIBITS FROM THE RECORD**

**COUNTY OF LOS ANGELES (PROPOSED ORDER) THAT INCLUDES COUNTY OF LOS ANGELES SHERIFFS TERRY JANUARY AND SHERIF SHERMAN MOTEN IN THEIR MOTION TO DISMISS.**
**LODGED AUGUST 25TH 1999 - 3.40 p.m.**
**PLACED IN FILE NOT USED 10/1/99**

County Of Los Angeles
LLOYD W PELLMAN, County Counsel
LOUIS V AGUILAR, Assistant County Counsel
JONATHAN H. GELLER Senior Deputy County Counsel
STATE BAR No: 15908
500 West Temple Street
648 Hall Of Administration, Los Angeles California 90012-2713
(213) 974 -1900
Attorneys for Defendants

COUNTY OF LOS ANGELES, COUNTY OF LOS ANGELES SHERIFF'S DEPARTMENT, COUNTY OF LOS ANGELES SANTA MONICA MUNICIPAL COURT, LAURENCE D RUBIN, LEE BACA, **Sheriffs SHERMAN MOTEN and TERRY JANUARY**

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

**APPENDIX – F**

**COUNTY OF LOS ANGELES (PROPOSED ORDER) THAT INCLUDES COUNTY OF LOS ANGELES SHERIFFS TERRY JANUARY AND SHERIF SHERMAN MOTEN IN THEIR MOTION TO DISMISS.**

**LODGED AUGUST 25TH 1999 - 3.40 p.m.**
**PLACED IN FILE NOT USED 10/1/99**
CASE NO. CV-99-2598-JSL

**[COUNTY OF LOS ANGELES] (PROPOSED) ORDER**

ANGELA BERNHARDT Plaintiff

VS

[OMITTED] , COUNTY OF LOS ANGELES, a public entity, COUNTY OF LOS ANGELES SHERIFF'S DEPT, a public entity, COUNTY OF LOS ANGELES SANTA MONICA MUNICIPAL COURT, a public entity, LAURENCE D RUBIN in his individual and official capacity. 1-10 CAUCASIAN MALE SHERIFF DEPUTY DOES & 1 -2 AFRICAN AMERICAN FEMALE SHERIFF DEPUTY DOES, OF JUDGE LAURENCE D RUBIN'S COURTROOM R & COUNTY OF LOS ANGELES SHERIFF'S DEPT, in their individual and official capacity [emphasis added]LA COUNTY SHERIFF LEROY D BACA in his individual and official capacity **SHERIFF SHERMAN MOTEN SHERIFF TERRY JANUARY in their individual and official capacity [empahsis added]** OFFUNE OBIAMIWE in her individual and official capacity, SHERIFF DEPUTY DOES 1-50 in individual and official capacity, and DOES 1 through 100, Defendants.

## APPENDIX F

**COUNTY OF LOS ANGELES (PROPOSED ORDER) WHICH INCLUDES COUNTY OF LOS ANGELES SHERIFFS TERRY JANUARY AND SHERIFF SHERMAN MOTEN IN THEIR MOTION TO DISMISS.**

**LODGED AUGUST 25TH 1999 - 3.40 p.m.**
**PLACED IN FILE NOT USED 10/1/99**
CASE NO. CV-99-2598-JSL

**[COUNTY OF LOS ANGELES] (PROPOSED) ORDER** Defendant's COUNTY OF LOS ANGELES SHERIFF'S DEPARTMENT, COUNTY OF LOS ANGELES SANTA MONICA MUNICIPAL COURT, LAURENCE D. RUBIN, LEE BACA, **Sheriffs SHERMAN MOTEN and TERRY JANUARY COUNTY OF LOS ANGELES's motion to dismiss for failure to state a claim upon which relief can be granted under F.R.C.P. Rule 12 (b) (6)** came on for hearing by the court on Oct 4th 1999, before the Honorable J. Spencer Letts, Judge of the United States District Court, Central District. **This court having considered the papers in support of and in opposition to the motion, oral argument having been heard. GOOD CAUSE HAVING BEEN SHOWN, THIS COURT HEREBY GRANTS defendants** COUNTY OF LOS ANGELES SHERIFF'S DEPARTMENT, COUNTY OF LOS ANGELES SANTA MONICA MUNICIPAL COURT, LAURENCE D. RUBIN, LEE BACA, **Sheriffs SHERMAN MOTEN and TERRY JANUARY'S motion to dismiss on the following grounds:**

A judge enjoys absolute judicial immunity from suits for damages involving actions or omissions which fall with the scope of judicial acts. [Mireles v.Waco (1991) 502 U.S.9. 112 S.Ct 286.

## APPENDIX F

## COUNTY OF LOS ANGELES (PROPOSED ORDER) FOR THEIR MOTION TO DISMISS WHICH INCLUDES SHERIFF TERRY JANUARY AND SHERIF SHERMAN MOTEN IN THE MOTION TO DISMISS.

The County Of Los Angeles is not liable under a theory of respondeat superior for acts or omissions committed by an employee (s) of the public entity. Monell v. New York City Dept of Soc Servs. (1978) 436 U.S. 658. Plaintiff cannot stae a cause of action for 42 USC Section 1983 against defendant COUNTY OF LOS ANGELES in that Plaintiff fails to plead facts to demonstrate an existing custom or policy of the defendant causing damage. Plaintiff cannot state a cause of action for 42 USC Section 1983 against defendant Lee Baca because he enjoys immunity from liability under the Eleventh Amendment. County Of Los Angeles v Superior court (Cal. App.2 District 1988) 68 Cal. App. 4th 1166). Plaintiff cannot maintain an action in District Court in the absence of some viable claim for violation of her constitutional rights, therefore any common law cause of action should be dismissed.

Accordingly, **THE COURT HEREBY ORDERS plaintiff's entire action dismissed as to defendants** COUNTY OF LOS ANGELES, COUNTY OF LOS ANGELES SHERIFF'S DEPARTMENT, COUNTY OF LOS ANGELES SANTA MONICA MUNICIPAL COURT, LAURENCE D. RUBIN, LEE BACA, **Sheriffs SHERMAN MOTEN and TERRY JANUARY.**

Judgment shall be entered accordingly.

DATED: _____, 1999

HONORABLE J. SPENCER LETTS.

**[LOCATION CDC DISTRICT DOCKET 42 - PROPOSED ORDER FOR COUNTY OF LOS ANGELES MOTION TO DISMISS & NINTH CIRCUIT COURT OF APPEALS EXCERPT OF THE RECORD VOLUME 3 PAGE 1, 2, 3, 4. ]**

APPENDIX – F

ENTERED AUGUST 30TH 1999.

EXHIBITS FROM THE RECORD

EXCERPT FROM COUNTY OF LOS ANGELES MOTION TO DISMISS PAGE 2

FILED AUGUST 25TH 1999

[LOCATION DISTRICT COURT DOCKET 42]

LlOYD W PELLMAN, County Counsel

LOUIS V AGUILAR, Assistant County Counsel

JONATHAN H. GELLER Senior Deputy County Counsel STATE BAR No: 15908 500 West Temple Street 648 Hall Of Administration, Los Angeles California 90012-2713 (213) 974 -1900

Attorneys for Defendants

COUNTY OF LOS ANGELES, COUNTY OF LOS ANGELES SHERIFF'S DEPARTMENT, COUNTY OF LOS ANGELES SANTA MONICA MUNICIPAL COURT, LAURENCE D RUBIN, LEE BACA, **Sheriffs SHERMAN MOTEN and TERRY JANUARY**

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

CASE NO. CV-99-2598-JSL

NOTICE OF MOTION AND MOTION TO DISMISS PLAINTIFF'S COMPLAINT; AND MEMORANDUM OF POINTS AND AUTHORITIES THEREON

F.R.C.P. RULES 12 (b)

DATE OCT 4TH 1999, TIME 1.P.M. COURTROOM "4"

ANGELA BERNHARDT Plaintiff VS

## APPENDIX F

**ENTERED AUGUST 30TH 1999.**

**EXHIBITS FROM THE RECORD**

**EXCERPT FROM COUNTY OF LOS ANGELES MOTION TO DISMISS PAGE 2**

FILED AUGUST 25TH 1999

**[LOCATION DISTRICT COURT DOCKET 42]**

[OMITTED]

COUNTY OF LOS ANGELES, a public entity, COUNTY OF LOS ANGELES SHERIFF'S DEPT, a public entity, COUNTY OF LOS ANGELES SANTA MONICA MUNICIPAL COURT, a public entity, LAURENCE D RUBIN in his individual and official capacity.

1-10 CAUCASIAN MALE SHERIFF DEPUTY DOES & 1 -2 AFRICAN AMERICAN FEMALE SHERIFF DEPUTY DOES, OF JUDGE LAURENCE D RUBIN'S COURTROOM R & COUNTY OF LOS ANGELES SHERIFF'S DEPT, in their individual and official capacity [emphasis added ]LA COUNTY SHERIFF LEROY D BACA in his individual and official capacity **SHERIFF SHERMAN MOTEN SHERIFF TERRY JANUARY** in their individual and official capacity **[empahsis added]** OFFUNE OBIAMIWE in her individual and official capacity, SHERIFF DEPUTY DOES 1-50 in individual and official capacity, and DOES 1 through 100, Defendants.

TO PLAINTIFF IN PRO PER:

PLEASE TAKE NOTICE that on Oct 4th, 1999, at 1.00 p.m. in Courtroom "4" of the above-entitled court, located at 312 N. Spring Street, Los Angeles, California 90012, defendants **COUNTY OF LOS ANGLEES, COUNTY OF LOS ANGELES SHERIFF'S DEPARTMENT, COUNTY OF LOS ANGELES SANTA MONICA MUNICIPAL COURT, LAURENCE D RUBIN, AND LEE BACA, for themselves alone, will and hereby do move this Honorable Court For An Order dismissing plaintiff's action as to moving defendants in its entirety and with prejudice.**

**APPENDIX F**

**ENTERED AUGUST 30TH 1999.**

**EXHIBITS FROM THE RECORD**

**EXCERPT FROM COUNTY OF LOS ANGELES MOTION TO DISMISS PAGE 2**

FILED AUGUST 25TH 1999

This Motion is made pursuant to the F.R.C. P. Rule 12 (b) (6) on the grounds that each and every cause of action in plaintiff's first amended Complaint fails to state a cause of action against these moving defendants for which relief can be granted... [OMITTED]

**[Location of document -District Court Docket 42 - County Of Los Angeles Motion To Dismiss Page 2 ] & [Ninth Circuit Excerpt Of Record Volume 3 Page 8.]**

**APPENDIX F**
**ENTERED AUGUST 30TH 1999.**
**EXHIBITS FROM THE RECORD**
**EXCERPT FROM COUNTY OF LOS ANGELES MOTION TO DISMISS PAGE 14**
**FILED AUGUST 25TH 1999**

[omitted] VIII. CONCLUSION

For the foregoing reasons moving defendants [emphasis added] respectfully request that this Court dismiss plaintiff's action **with prejudice,** or, in the alternative, require plaintiff to provide a **more definite statement** to which **moving defendants** could appropriately respond

DATED: August 25th 1999. Respectfully submitted, LLOYD W. PELLMAN County Counsel By Jonathan H. Geller Senior Deputy County Counsel

**Attorneys for Defendants** COUNTY OF LOS ANGELES, COUNTY OF LOS ANGELES SHERIFF'S DEPARTMENT, COUNTY OF LOS ANGELES SANTA MONICA MUNICIPAL COURT, LAURENCE D RUBIN AND LEE BACA. **Sheriffs SHERMAN MOTEN and TERRY JANUARY [emphasis added]**

**[Location Of Motion To Dismiss- District Court Docket 42 - County Of Los Angeles Motion To Dismiss Page 14 Ninth Circuit Excerpt Of Record Volume 3 Page 20.]**

**APPENDIX – F**

**FILED SEPT 3RD 1999.**

**EXHIBITS FROM THE RECORD**

**EXCERPT FROM SANTA MOTION COLLEGE'S MOTION TO DISMISS PAGE 19**

**LOCATION Santa Monica College Et Als Motion To Dismiss - District Court Docket 43 - Page 19 Ninth Circuit Court Of Appeals Excerpt From Record - Volume 3 Page 46**

SANTA MONICA COLLEGE ET AL'S MOTION TO DISMISS

Mary L. Dowell -State Bar No. 78763

Albert Nicholson -State Bar No. 170902

LIEBERT, CASSIDY AND FRIERSON

6033 W Century Blvd. Suite 601

Los Angeles California 90045-6415

(310) 645 6492

Attorneys For Defendants:

SANTA MONICA COLLEGE, SANTA MONICA COMMUNITY COLLEGE DISTRICT, SANTA MONICA COLLEGE BOARD OF TRUSTEES, SANTA MONICA COLLEGE POLICE DEPT., R.L. JONES RON MARABLE EILEEN MILLERPIEDAD ROBERTSON, ROBERT SAMMIS JOANNE. FIELDER, BRENDA SIMMONS, HERB RONEY, DOROTHY EHRHART MORRISION, NANCY CATTELL CAROL L. CURRY, ILLONA JO KATZ, PATRICK NICHELSON, ANNETTE SHAMEY.

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

**APPENDIX F**

**FILED SEPT 3RD 1999.**

**EXHIBITS FROM THE RECORD**

**EXCERPT FROM SANTA MOTION COLLEGE'S MOTION TO DISMISS PAGE 19**

**LOCATION Santa Monica College Et Als Motion To Dismiss - District Court Docket 43 - Page 19 Ninth Circuit Court Of Appeals Excerpt From Record - Volume 3 Page 46**

ANGELA BERNHARDT Plaintiff

v.

SANTA MONICA COLLEGE et al, Defendants

CASE N0. 99-2598 -JSL (RNBx)

NOTICE OF MOTION AND MOTION TO DISMISS PURSUANT TO FRCP 12 (b) (6) AND/OR IN THE ALTERNATIVE MOTION FOR A MORE DEFINITE STATEMENT PURSUANT TO F.R.C.P. 12 (e)

MEMORANDUM OF POINTS AND AUTHORITIES (FRCP, Rule 12 (b) (6); 12 (e)

Date Oct 4th 1999 Time: 1.00 p.m. Dept: 4 [omitted]

**G. THE STATE LAW CLAIMS AGAINST THE SANTA MONICA COLLEGE DEFENDANTS ARE ALL BARRED BY THE DOCTRINE OF RES JUDICATA, BY THE FAILURE TO PRESENT A TIMELY CLAIM, AND BY THEIR VAGUENESS AND AMBIGUITY.**

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**FILED SEPT 3RD 1999.**

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**EXCERPT FROM SANTA MOTION COLLEGE'S MOTION TO DISMISS PAGE 19**

The Complaint, as it relates to the Santa Monica College Defendants, actually consists of a confused series of common law state tort claims. The Court should decline to assert any jurisdiction over them whatsoever. First this Court has no reason to do so since all Plaintiff's ostensible federal claims for relief are barred as discussed above. Second, most, if not all, are apparently barred by the doctrine of res judicata. Furthermore each of them is barred by applicable limitations periods. Finally none of them are intelligible, and must be dismissed as impermissibly vague and ambiguous.

**1. The state tort claims are barred by res judicata**

Pursuant to the Complaint itself, it appears that Plaintiff's court action in Santa Monica Municipal court involved all the same state court causes of action that she has included here. She cannot relitIgate in federal court claims already dismissed by state court. The state court case was dismissed. That determination is res judicata as to those claims, and this Court has no jurisdiction over them.

**2. The state tort claims are barred by the failure to present timely claims**

Plaintiff's tort claims (battery, defamation, intentional infliction of emotional distress, intentional misrepresentation, negligence, false arrest, "unlawful detainment," unlawful search," assault and battery *) are all barred by her failure to present timely claims

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to the Defendant Santa Monica Community College District. This fact was recognized by the Municipal Court which heard Plaintiff's first lawsuit, resulting in the dismissal of her claims in small claims court. Although Plaintiff now alleges that she has tendered the requisite claims, she has not and cannot allege timely compliance with the law.

**[Note* CLARIFYING THE SANTA MONICA COLLEGE ET ALS MISREPRESENTATION OF THE SMALL CLAIM: The Small Claim action filed on 2nd Sept 1998 was for the cause of action " Emotional Injury Due To Police cover up of a sexual assault complaint, negligence and defamation"**

**[NOTE: THIS SMALL CLAIM DID NOT INCLUDE ANY CIVIL RIGHTS CAUSE OF ACTIONS FOR SEXUAL DISCRIMINATION NOR ANY STATE TORT CLAIMS FOR ABUSE OF PROCESS, BATTERY, INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS, FALSE ARREST, UNLAWFUL DETAINMENT UNLAWFUL SEARCH, ASSAULT AND BATTERY, NOR WAS THE ALLEGED PERPETRATOR OF SEXUAL ASSAULT AND CONTINUING DISCRIMINATION INCLUDED AS A DEFENDANT .]**

**[LOCATION Santa Monica College Et Als Motion To Dismiss - District Court Docket 43 - Page 19 Ninth Circuit Court Of Appeals Excerpt From Record - Volume 3 Page 46]**

## APPENDIX F

**EXHIBITS IN THE RECORD**
**_COUNTY OF LOS ANGELES SANTA MONICA COURTHOUSE - SHERIFF'S REPORT ON EXCESSIVE FORCE FOR 6TH OCT 1998**

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT
WATCH COMMANDER'S REPORT No. 69159

**[DISTRICT COURT DOCKET 49 - REFERRED TO IN 1ST AMENDED COMPLAINT AS EXHIBIT Z117 OR EXHIBIT X].**

**NINTH CIRCUIT EXCERPT OF THE RECORD - VOLUME 2 - PAGE 124**

Has any member of the Department attempted to discourage you in any way from bringing this matter to the attention of the Department.

DATE 12/7/98

BERNHARDT ANGELA 310 281 3092

P.O.BOX 480509 LOS ANGELES 90048

CALIFORNIA

**10/6/98** 10.45P.M. SANTA MONICA/ SANTA MONICA CRT4400

LOCATION ADDRESS - 1725 MAIN STREET

SYNOPSIS OF CONTACT EVENT

Ms. Bernhardt states that while she was before Judge [Laurence D] Rubin Dept R, she turn to one of three deputies to give him three sheets of paper. Ms. Bernhardt stated that her legs were then kicked from under her forcing her to the floor, hit approximately twenty times, taken into custody.

WITNESS INFORMATION

**APPENDIX F**

**COUNTY OF LOS ANGELES SANTA MONICA COURTHOUSE - SHERIFF'S REPORT ON EXCESSIVE FORCE FOR 6TH_OCT 1998 EXHIBITS IN THE RECORD**

**LOS ANGELES COUNTY SHERIFF'S DEPARTMENT**

**WATCH COMMANDER'S REPORT No. 69159**

**[DISTRICT COURT DOCKET 49 - REFERRED TO IN 1ST AMENDED COMPLAINT AS EXHIBIT Z117 OR EXHIBIT X].**

**COUNTY OF LOS ANGELES SHERIFF'S REPORT ON EXCESSIVE FORCE 6THOCT 1998**

JUDGE [LAURENCE D] RUBIN

WATCH COMMANDER (PERSON COMPLETING FORM) SHERMAN MOTEN EMPLOYEE NO 064827

[LOCATION DISTRICT COURT DOCKET 49 - REFERRED TO IN 1ST AMENDED COMPLAINT AS EXHIBIT Z117 OR EXHIBIT X.

NINTH CIRCUIT EXCERPT OF THE RECORD - VOLUME 2 - PAGE 124]

**EXHIBIT F**

**DATE WRITTEN BY SHERIFF SHERMAN MOTEN 7TH DEC 1998 –**

**DOCUMENT - Continuation Of County Of Los Angeles County Sheriff' Sherman Moten's Report For Courtroom Incident Of 10/6/98 That Sheriff Sherman Moten Refused To Incorporate Into Main Watch commander's Report Or Sign.**

**EXHIBITS FRO M THE RECORD**

**[Note: * Sheriff Sherman Moten wrote Petitioner's birth date BUT not the actual date 7TH December 1998 on his notes!]**

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**1./25/51***

Ms. Bernhardt said that one of the deputies embedded his finger nails into her left hand, She also received a bruise on her right leg at the knee, and suffered internal injuries from the punches, was falsely arrested, and her glasses were torn from her face. Ms. Bernhardt does not recall the deputies names, however she can i[n]dentify the deputies involved. Ms. Bernhardt also stated the deft Ron Marable [Santa Monica College Police] also assisted.

**[ District Court Docket 49 - Referred To In 1st Amended Complaint As Exhibit Z118 Or Exhibit Xx. Ninth Circuit Excerpt Of The Record - Volume 2 - Page 125].**

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EXHIBITS FROM THE RECORD FILED **25th JAN, 2000**

ORDER FROM UNITED STATES COURT OF APPEALS FOR NINTH CIRCUIT RE: LACK OF JURISDICTION

UNITED STATES COURT OF APPEALS FOR NINTH CIRCUIT DOCKET NO 99-56890

ANGELA BERNHARDT, -Plaintiff-Appellant, v.

SANTA MONICA COLLEGE, a public entity; et al., Defendants-Appellees. Nos. 99,56890

**APPENDIX F**

**FILED 25th JAN, 2000**

**ORDER UNITED STATES COURT OF APPEALS FOR NINTH CIRCUIT RE: LACK OF JURISDICTION**

**UNITED STATES COURT OF APPEALS FOR NINTH CIRCUIT DOCKET NO 99-56890**

**EXHIBITS FROM THE RECORD**

PRIOR HISTORY

D.C. #. CV-99-2598-JSL.

J. Spencer Letts, District Judge, Presiding. : Appeals from the United States District Court for the Central District of California.

Before: BEEZER, O'SCANNLAIN, , and THOMAS, Circuit Judges.

A review of the record demonstrates that this court lacks jurisdiction over this appeal because the order challenged in the appeal is not final or appealable. See FED. R. Civ. P. 54 (b); Chacon v. Babcock, 640 F. 2d 221 (9th Circ. 1981) (order is not appealable unless it disposes of all claims as to all parties or judgment is entered in compliance with rule). Consequently, this appeal is dismissed for lack of jurisdiction

**APPENDIX F**

**FILED 4TH OCT 1999 –12: 54 P.M.**
**PLAINTIFF ANGELA BERNHARDT'S OPPOSITION TO COUNTY OF LOS ANGELES DEFENDANTS MOTION TO DISMISS UNDER F.R.C.P.12 (b)**



THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
Case NO CV -99–2598 - JSL

DATE: OCTOBER 4TH 1999 TIME: 1 P.M.
PLACE: COURTROOM #4 HON J SPENCER LETTS

**Angela Bernhardt**

## APPENDIX F
## OPPOSITION TO COUNTY OF LOS ANGELES MOTION TO DISMISS



COMEES NOW ANGELA BERNHARDT and submits the enclosed opposition to defendants motion to dismiss Plaintiff's complaint under Federal Rule 12 (b).

This opposition to defendants COUNTY OF LOS ANGELES MOTION TO DISMISS is made on the following grounds:

1.PLAINTIFF ANGELA BERNHARDT has stated a cause of action for constitutional rights violation 42 USC, section 1983, 1985 (2) (3) and common law torts committed against plaintiff by LAURENCE D RUBIN in that defendant does not enjoy absolute judicial immunity for acts or omissions that do not fall into the category of judicial acts - and Plaintiff was only put on notice unequivocally, that defendant Laurence D Rubin's acts and omissions were non –judicial in nature AFTER PLAINTIFF RECEIVED COUNTY OF LOS ANGELES MOTION TO DISMISS in September 1999, and therefore would not have been able to state that Judge Laurence D Rubin's acts and omissions were non -judicial in her First Amended Complaint filed with this Court on 6th July, 1999, as the County Of Los Angeles defendants were not required to respond to Plaintiff's original complaint, and the issue of absolute immunity for judicial acts was not raised by the County Of Los Angeles Senior Deputy County Counsel Jonathan H Geller before County Of Los Angeles Motion To Dismiss papers that were served August 26th, 1999.

2.PLAINTIFF ANGELA BERNHARDT is not stating a cause of action for civil rights violations under 42 USC Section 1983 and 1985 against defendant COUNTY OF LOS ANGELES for acts or omissions committed by employee (s) of the County Of Los Angeles under a theory of respondeat superior;

## APPENDIX F
## OPPOSITION TO COUNTY OF LOS ANGELES MOTION TO DISMISS

3.PLAINTIFF ANGELA BERNHARDT has stated a cause of action for civil rights violation under 42 USC Section 1983 and/or 1985 against defendant COUNTY OF LOS ANGELES in that plaintiff has plead facts in her first amended complaint, demonstrating an existing custom or policy of the defendant causing damage as allegedly suffered by Plaintiff; Please see page 43, first amended complaint lines 11-21 " Thus there is a total fragmentation of the total human act, no one is confronted with the consequences of his decision to carry out the evil act. The person who assumes responsibility - JUST AS THE CAUCASIAN SHERIFF'S DEPUTIES IN JUDGE LAURENCE D RUBIN'S SANTA MONICA COUNTY OF LOS ANGELES COURTROOM -HAVE EVAPORATED, PERHAPS THAT IS THE MOST COMMON CHARACTERISTIC OF SOCIALLY ORGANIZED EVIL IN MODERN SOCIETY."

**PAGE 3**

In Plaintiff's first amended complaint Plaintiff has used Stanley Milgram's model of socially organized evil to illuminate County Of Los Angeles policy of socially organized evil which occurred to Plaintiff through the County Of Los Angeles defendants depriving plaintiff of her civil rights under the color of state law by an abridged hearing which did not treat Plaintiff as she should be treated in a civil court proceeding – but instead Plaintiff became the defendant in criminal court proceeding, where not only was cross examination not allowed, but also there was no possibility of prevailing, just like Franz Kafka's novel *The Trial*.

The County Of Los Angeles defendants then combined the unfair hearing with no possibility of prevailing with police

brutality and unlawful detainment against the Plaintiff, in reckless disregard for her person, which added up to no due process of law and violated the 4th Amendment and 14th Amendment.

No single County Of Los Angeles defendant would have done what they did or would have since said what they said, if this was not County Of Los Angeles policy, and part of a socially organized scheme/code of silence to deprive plaintiff of her civil rights under the color of state law.

When Plaintiff quoted psychologist Stanley Milgram and adds her case to it - in herFirst Amended complaint page 43, line 18-21, by stating "The person who assumes responsibility [just as the Caucasian sheriff's deputies in Judge Laurence D Rubin's Santa Monica County Of Los Angeles courtroom have evaporated], perhaps that is the most common characteristic of socially organized evil in modern society" this is the logical equivalent of saying County Of Los Angeles defendants socially organized themselves in an arbitrary way and were deliberately indifferent to the rights of Plaintiff. The purpose was a favor to Santa Monica College and their police officer defendant Santa Monica College Police Officer Ron Marable, but in order to do this they deprived Plaintiff of her civil rights under the color of state law.

The words "SOCIALLY ORGANIZED" in Plaintiff's first amended complaint page 43 line 21, is the logical equivelent of saying THE COUNTY OF LOS ANGELES POLICY, as their policy is socially organized, and by Plaintiff quoting Milgram and using the words "SOCIALLY ORGANIZED" it would be impossible for to be interpreted to mean that Plaintiff was saying she was injured under §1983 under a respondeat superior theory

for injuries inflicted by County Of Los Angeles employees or agents.

Also Note: Plaintiff was warned in 1993 approx. that Sheriffs brutality took place in Judge Laurence D Rubin's Superior /Small Claims courtroom and how the sheriffs involved were never reprimanded, and because



Plaintiff was informed about this - and then forgot because years passed- and only remembered again - a few days after the police brutality happened to her - Plaintiff believes that the police brutality that was directed at her on October 6th, 1998-. is not a random event of police brutality in Judge Laurence D Rubin's courtroom, but is a County Of Los Angeles policy for certain cases, as she was told back in 1993 aprox that these Special Caucasian Sheriffs in Judge Laurence D Rubin's courtroom who caused police brutality were always shielded from accountability.

Plaintiff stated this in her original complaint dated March 15th, 1999 and her first amended complaint on Page 65, line 18- 28, and Page 66 line 1, Plaintiff states, I quote, " Three or four days after the October 6th 1998 hearing [beating], Plaintiff remembered that she had been told about seven years ago that Sheriff's beatings of people take place in Judge Laurence D Rubin's Small Claims courtroom in Superior Court, Santa Monica Courthouse on a regular basis. The conversation came up because Plaintiff was in Santa Monica Courthouse, and as she walked by Judge Laurence D Rubin's courtroom she wondered out loud whether Judge Laurence D Rubin was related to Judge Charles Rubin of Beverley Hills Court. Judge Charles Rubin [was the Judge for t he Zsar Zsar Gabor traffic policeman trial in Beverly Hills Court in 1989] and a few months after had given Plaintiff a

## APPENDIX F
## OPPOSITION TO COUNTY OF LOS ANGELES MOTION TO DISMISS

judgment against County Of Los Angeles in Beverly Hills Court, Case No 96665 on October 31st, 1989, and Plaintiff wondered out loud if Judge Charles Rubin and Laurence Rubin were brothers. The person informed Plaintiff that Sheriffs deputies with records of excessive force who gave the beatings in Judge Laurence D Rubin's Courtroom were never reprimanded, and always hidden. There was a mention of a Sheriff named Chaney who had a long record of excessive force, who was famous for this."

Therefore as Plaintiff has stated that she had been informed about sheriff brutality in Judge Laurence D Rubin's courtroom seven years before it happened to her, Plaintiff is obviously stating that this police brutality is not a random event in that Courtroom, and is County Of Los Angeles policy for Judge Laurence D Rubin's courtroom in County Of Los Angeles Santa Monica Municipal courthouse.

In Monell vs Department of Social Services Of City Of New York 436 US 658 98 S Ct 2018, 56, L.Ed. 2d 611, 1978, 253, 258, 259, which sets out Municipal liability it states, "Instead, it is when execution of a government's policy or custom, whether made by its lawmakers or by those whose edicts or acts may fairly be said to represent official policy, inflicts the injury that the government as an entity is responsible under §1983."

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And In Pembaur v Cincinnati 475 US 469 106 S Ct 1292, 89, L Ed 2d 452 (1986) , also sets out more elements of Municipal liability, the plaintiff alleged his fourth amendment rights were violated when police officers used an ax to chop down a door in his office building...The police took this action after conferring with the county prosecutor who said, "Go in and get them" Upon finding

this statement by the prosecutor sufficient to establish official policy, a plurality of the court said, "municipal liability under §1983 attaches where – and only where – a deliberate choice to follow a course of action is made from among various alternatives by the officials responsible for establishing final policy with respect to the subject matter in question.."

By defendant Judge Laurence D Rubin not allowing cross examination, and by his not asking if the California government claim requirement 910 et seq, had been fulfilled at the beginning of the hearing, and by his concealing the identities of the Caucasian Sheriff's deputies in his courtroom who he saw attack Plaintiff, defendant Laurence D Rubin deliberately chose to follow a course of action from among various alternatives, and as a judge he is an official responsible for establishing final policy with respect to the subject matter in question, and therefore as he has made the choice to conceal the Caucasian Sheriff's deputies who caused police brutality to the Plaintiff and has joined a conspiracy to say that his usual deputy sheriff bailiff Terry January is the person that Plaintiff was in a confrontation with, when this is not so, municipal liability under §1983 attaches.

And defendant Laurence D Rubin does not enjoy absolute immunity for his non judicial acts of allowing Caucasian Sheriffs into his courtroom and then after the Caucasian Sheriffs have brutalized Plaintiff, he does not enjoy absolute immunity for concealing their identities, and replacing their identities with Terry January in order that the Caucasian Sheriffs can show up again in his courtroom tomorrow to cause more police brutality and trauma to other innocent victims.

4.Plaintiff in her first amended complaint has quoted 42 USC § 1985 (3) on page 44, because County Of

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Los Angeles Court went on the premises of defendant Santa Monica college Police Officer Ron Marable and other defendants, for the purpose of depriving Plaintiff of the equal protection of the laws, and equal privileges and immunities of the laws and that there were overt acts in furtherance of this conspiracy whereby Plaintiff was injured in her person and and property, and on page 60 line 18 and 19 Plaintiff states, "Why did the Court, Judge Laurence D Rubin, allow Caucasian sheriffs in to the Courtroom, who beat up plaintiff, and who are now being hidden?"

**PAGE 6**

PLAINTIFF ANGELA BERNHARDT has stated a cause of action against the 1-10 CAUCASIAN SHERIFFS for civil rights violations under 42 USC Section 1983 and/or 1985 in that Plaintiff has plead facts demonstrating how they are part of the County Of Los Angeles Policy To Deprive Plaintiff Of Her Civil Rights. In Plaintiff's first amended complaint, page 59, line 25-27, "The police brutality was instigated by 1 Caucasian Sheriff Deputy who Plaintiff can recognize, kicking plaintiff to floor, and 1-2 others joining him and punching Plaintiff twenty time in soft tissue around he stomach and ribcage area and digging their fingernails into her hands even though Plaintiff had not attacked them..., Page 60, line 4, "The one Caucasian Sheriff deputy bailiff currently hidden by the County Of Los Angeles Sheriff's department intended to cause contact." And pages 60 through 66.

PLAINTIFF ANGELA BERNHARDT does state a cause of action for constitutional rights violation under 42 USC Section 1983 and 1985 against defendant Lee Baca because he does not enjoy immunity from liability under the Eleventh Amendment as he joined the conspiracy to

deprive plaintiff of her civil rights under the color of state law through condoning and ratifying the county Of Los Angeles Sheriffs' departments' suppression of evidence of the Caucasian Sheriff's deputies identities who caused police brutality to the Plaintiff, and by giving Plaintiff an arbitrary investigation and closing it as soon as he could to avoid disclosing the identities of the County Of Los Angeles Caucasian Sheriffs in Judge Laurence D Rubin's courtroom.

And a state officer or official is not afforded Eleventh Amendment immunity for Section 1983 claims; in Ex-parte Young (1908) made clear that state officials threatening the enforcement of unconstitutional statutes or threatening the implementations of unconstitutional action could be enjoined in Federal Court without running afoul of the Eleventh Amendment, and are liable for damages when sued in their personal capacity, Hafer V Melo, 502 US 21 112 S Ct 358, 116, L Ed 2d, 301, (1991) , also states, " We hold that state officials sued in their individual capacities are "persons" within the meaning of § 1983, The Eleventh Amendment does not bar such suit, nor are state officers absolutely immune from personal liability under § 1983 solely by virtue of the "official" nature of their acts. Congress has power under §5 of the fourteenth amendment to abrogate the states' immunity from claims for damages, "as a means of enforcing the substantive guarantees of the fourteenth amendment." Fitzpatrich v Bitzer 427 US 445, 96 S CT 2666, 49 L.ED 2d 614 1976,

5.PLAINTIFF ANGELA BERNHARDT has stated a cause of action for constitutional rights violations under 42 USC Section 1983 and 1985 against defendant COUNTY OF LOS ANGELES because the defendant

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COUNTY OF LOS ANGELES is liable for acts and omissions of a state officer or official who is not afforded Eleventh Amendment immunity for Section 1983 claims; in Ex-parte Young (1908), and state officials such as Laurence D Rubin, 1-10 Caucasian Sheriff's deputies, Terry January, Sherman Moten, Lee Baca are liable for damages when sued in their personal capacity, Hafer V Melo, 502 US 21 112 S Ct 358, 116, L Ed 2d, 301, (1991, Fitzpatrich v Bitzer 427 US 445, 96 S CT 2666, 49 L.ED 2d 614 1976, and Monell stated "when execution of a a government's policy or custom, whether made by its lawmakers or by those whose edicts or acts may fairly be said to represent official policy, inflicts the injury that the government as an entity is responsible under 1983.

6.PLAINTIFF ANGELA BERNHARDT stated a cause of action against defendants COUNTY OF LOS ANGELES SHERIFF'S DEPARTMENT and COUNTY OF LOS ANGELES SANTA MONICA COURT.

Plaintiff can maintain a cause of action in District Court as Plaintiff does have a viable claim for violation of her Constitutional rights, therefore neither her Constitutional claims for violations of civil rights, nor Plaintiff's common law causes of action should be dismissed.

### INTRODUCTION

1) Plaintiff ANGELA BERNHARDT's First Amended Complaint dated 6th July, 1999. alleges federal causes of action under 42 USC Section 1983 and 1985, and Several State Causes Of Action Against The County Of Los Angeles, Judge Laurence D Rubin, 1- 10 Caucasian Sheriffs Of Judge Laurence D Rubin's Courtroom, Sheriff Sherman Moten, Sheriff Terry January, Sheriff Lee Baca,

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## OPPOSITION TO COUNTY OF LOS ANGELES MOTION TO DISMISS

Judge Laurence D Rubin, County Of Los Angeles Sheriff's Department, County Of Los Angeles Santa Monica Municipal Court

2) Based on the allegations in the First Amended Complaint Plaintiff has not failed to allege the elements for municipal liability against defendants against County Of Los Angeles, Laurence D Rubin, 1-10 Caucasian Sheriffs of Judge Laurence D Rubin's Courtroom. Terry January, Sherman Moten, Lee Baca, County Of Los Angeles Santa Monica Municipal Court, County Of Los Angeles Sheriff's department, under 42 USC§ 1985 (2) (3). County Of Los Angeles defendants have conspired to deter by force intimidation or threat Plaintiff in Santa Monica Municipal court and in any other court of the United States, from attending such court, and from testifying from any matter pending therein, freely fully and truthfully, and have injured Plaintiff in her person on account of her having so attended and testified, and influenced and the verdict, presentment in Santa Monica Municipal Court County Of Los Angeles, ...oı if two or more persons conspire for the purpose of

PAGE 8

impeding hindering obstructing or defeating, IN ANY MANNER, THE DUE COURSE OF JUSTICE, in any state or territory, with intent to deny any citizen the equal protection of the law, or to injure her or her property for lawfully enforcing or attempting to enforce the right of any person, or class of person, to the equal protection of the laws, the party so injured or deprived may have an action for the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators.

3) Plaintiff has stated a claim in CV—99-2598-JSL against the County Of Los Angeles defendants for

constitutional and municipal civil rights violations under 42 USC, section 1983, 1985 (2) (3) and common law torts committed against plaintiff , for depriving Plaintiff of her Federally protected rights privileges and immunities as the hearing was set up to abridge Plaintiffs rights privileges and immunities with no due process of law on October 6th, 1998.

A) CROSS EXAMINATION WAS BANNED BY JUDGE LAURENCE D RUBIN AT THE BEGINNING OF THE HEARING - AND CROSS EXAMINATION IS GUARANTEED AS PART OF A COURT HEARING BY THE 6TH AMENDMENT OF THE CONSTITUTION, AND IS A FUNDAMENTAL GUARANTEE OF LIFE AND LIBERTY PROTECTED BY THE 14TH AMENDMENT THROUGH DUE PROCESS OF LAW.

Confrontation – 6th Amendment

"The primary object of the constitutional provision in question was to prevent depositions of ex parte affidavits . being used against the prisoner in lieu of a personal examination AND CROSS EXAMINATION OF THE WITNESS in which THE ACCUSED has an opportunity NOT ONLY OF TESTING THE RECOLLECTION AND SIFTING THE CONSCIENCE OF THE WITNESS, BUT OF COMPELLING HIM TO stand face to face with the jury in order that they may look at him, and judge by his demeanor upon the stand and the manner in which he gives his testimony whether he is worthy of belief"145 THE RIGHT OF CONFRONTATION [CROSS-EXAMINATION] IS "[O]NE OF THE FUNDAMENTAL GUARANTEES OF LIFE AND LIBERTY . . . LONG DEEMED SO ESSENTIAL FOR THE DUE PROTECTION OF LIFE AND LIBERTY THAT IT IS

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GUARDED AGAINST LEGISLATIVE AND JUDICIAL ACTION BY PROVISIONS IN THE CONSTITUTION OF THE



UNITED STATES AND IN THE CONSTITUTIONS OF MOST IF NOT ALL OF ALL THE STATES COMPOSING THE UNION

**B)**The County Of Los Angeles defendants and Santa Monica college defendant CONCEALED THE CALIFORNIA GOVERNMENT CODE REQUIREMENT FROM PLAINTIFF, AND THEREFORE SHE HAD NOT COMPLIED WITH IT, and so THE CALIFORNIA GOVERNMENT CLAIM requirement although not discriminatory on its face WAS USED IN A PURPOSEFULLY DISCRIMINATORY MANNER TO DENY PLAINTIFF ANY POSSIBILTIY OF PREVAILING, because THAT REQUIREMENT WAS CONCEALED prior to, and during the hearing and the hearing was allowed to continue - when Plaintiff has no possibility of prevailing - and a state remedy for this does not exist, as Judge Laurence D Rubin did not state on the judgment, judgment denied because California Government requirement not fulfilled by Plaintiff who was too late to fulful it, and anyway Plaintiff was not too late to fulfil it.

**C)** And then Plaintiff was battered by CAUCASIAN SHERIFF'S DEPUTY BAILIFFS after defendant Santa Monica College Police Officer Ron Marable had perjured himself in Judge Laurence D Rubin's court. There was one Caucasian Sheriff Deputy stationed in the courtroom throughout the hearing, who kicked her to the floor, and other Caucasian Sheriffs joined him, while she was already restrained, and dug their fingernails into plaintiff's left hand, punched her for two minutes, ripped

her glasses off her face, and handcuffed plaintiff, and unlawfully detained Plaintiff. **4)** Three Caucasian Sheriffs in Judge Laurence D Rubin's courtroom, without a warrant and without probable cause, falsely arrested plaintiff in violation of plaintiff's Fourth Amendment right to be secure in her person from unreasonable seizure and her FOURTEENTH AMENDMENT RIGHT NOT TO BE DEPRIVED OF HER LIBERTY WITHOUT DUE PROCESS OF LAW. **5)**The County Of Los Angeles defendants conspired to deter by force and by intimidation Plaintiff in her person on account of her so having attended because she testified against a Santa Monica College Police Officer, Santa Monica College, Santa Monica Community College District, who caused her emotional injury DUE TO OBSTRUCTION OF JUSTICE, and the obstruction of justice continued because of the abridged hearing in that courtroom! **6)** The County of Los angeles defendants intended to influence the verdict, and intended to injure



plaintiff in her person and property on account of her so attending and so testifying, and also conspired for the purpose of impeding hindering obstructing and defeating the due course of justice in the State of California with intent to deny plaintiff equal protection of the laws, and to injure her person and her property as the CAUCASIAN SHERIFFS IN THAT COURTROOM ARE NOW BEING HIDDEN IN ORDER TO HIDE THIS CRIME.

**7) SUPPRESSION OF EVIDENCE** Currently the County of Los Angeles defendants including Judge Laurence D Rubin, are suppressing evidence regarding the identities of the County of Los Angeles Caucasian sheriffs who caused police brutality to plaintiff in judge Laurence d Rubin's courtroom on October 6th, 1998. And

defendant Laurence d Rubin does not enjoy absolute judicial immunity for acts or omissions that are not judicial acts, and is accountable and liable under 42 USC 1983 & 42 USC 1985 (2)& (3) for his non judicial acts. And Judge Laurence D Rubin has no jurisdiction as a Judge to conceal the identities of the 1-3 Caucasian Sheriffs who were in his courtroom,, therefore as Judge Laurence D Rubin has since the hearing on October 6th, 1998 decided to conceal the identities of Caucasian Sheriffs who caused physical injury to Plaintiff and traumatized her, and as he knows who they are, Judge Laurence D Rubin came to this decision from amongst all the other decisions that he could have made, and his concealment of their identities, and his cover up of their police brutality against the plaintiff, ratifies their police brutality, ratifies his policy and ratifies the County Of Los Angeles policy to have these Caucasian Sheriffs in his courtroom to cause police brutality on this occasion after an abridged proceeding without due process of law, and Judge Laurence D Rubin's act in concealing Caucasian Sheriffs in his courtroom and replacing them with Sheriff Terry January who is most certainly the wrong sheriff if he is African American, is also not a judicial act, and therefore Judge Laurence D Rubin does not enjoy absolute immunity. In Forrester v. White, 484 U.S. 219 (1988); A state-court judge did not have absolute immunity from a damages suit under 1983 for his decisions to demote and dismiss a court employee. Pp. 223-230. and therefore Defendant Laurence D Rubin does not have absolute immunity from a damages suit under 42 USC §1983 for his decisions to allow Caucasian Sheriffs into his courtroom, who caused police brutality to Plaintiff in his courtroom, and who Judge Laurence D Rubin is now hiding through his silence, and therefore he is ratifying their police brutality against the Plaintiff.

And it is the nature of the function performed - adjudication - rather than the identity [Forrester



v White 484 U.S. 219, 2 (1988) ] of the actor who performed it - a judge - that determines whether absolute immunity attaches to the act. Pp. 225-229. Administrative decisions, even though they may be essential to the very functioning of the courts, have not similarly been regarded as judicial acts.

In Ex parte Virginia, 100 U.S. 339 (1880), for example, this Court declined to extend immunity to a county judge who had been charged in a criminal indictment with discriminating on the basis of race in selecting trial jurors for the county's courts. The Court reasoned: "Whether the act done by him was judicial or not is to be determined by its character, and not by the character of the agent.

Whether he was a county judge or not is of no importance

In a Motion To Dismiss all the facts stated in Plaintiff's complaints are deemed true, yet County Of Los Angeles failed to mention in their papers the Caucasian Sheriff's Deputies In Judge Laurence D Rubin's Courtroom Who Caused Police Brutality To The Plaintiff which is mentioned in both Plaintiff's original and first amended complaint. In Hishon v King & Spalding, 467, US 69,73, 104 SCt. 2229, 81 L.Ed 2d. 2d 59 (1984) it also states, "At this stage of the litigation we must accept petitioner's allegations as true. A court may dismiss a complaint only if it is clear that no relief could be granted under any set of facts that could be proved consistent with the allegations. Conley v. Gibson, 355 U.S.41, 45-46 91957)

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Therefore for this Court to dismiss the case against County Of Los Angeles defendants now the Court would have to agree that relief could not be granted under any set of facts that could be proved consistent with Plaintiff's allegations, and Plaintiff has said that it was Caucasian Sheriffs who caused police brutality to Plaintiff, who are now being hidden by defendant Judge Laurence D Rubin, and defendant Santa Monica College Police Officer Ron Marable and all County Of Los Angeles defendants. That Santa Monica College Police Officer Ron Marable gave perjured testimony to the Court Judge Laurence D Rubin on 6th October, 1998 against the Plaintiff. Judge Laurence D Rubin, defendant Santa Monica College Police Officer Ron Marable and Sheriff Terry January are not telling the truth when they say African American Sheriff Terry January was confrontation with Plaintiff Angela Bernhardt on October 6th 1998, to prevent Plaintiff from reaching Judge Laurence D Rubin.

The Court would also have to accept that Plaintiff at the hearing of October 6th 1998 had no possibility to prevail because of the California government claim requirement had not been disclosed to her by either the County Of Los Angeles Court or the defendant Ron Marable, and would also have to

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accept that Judge Laurence D Rubin at the beginning of the hearing made it known that there was to be no cross examination allowed even though that is a violation of the 6th Amendment, and 14th Amendment for due process of law.

If the Court accepts all these facts as true then Plaintiff believes that these alleged facts show that Plaintiff was deprived of her fundamental right to a fair and

unabridged hearing with cross examination allowed so that she could prove her case, she was barred from cross-examination and therefore was unable to make her case, and was thus not given the due process of law that is guaranteed to her under the 14th Amendment, Plaintiff's rights were violated under the 4th and 14th Amendment by the Caucasian Sheriffs deputies who caused her police brutality, and that defendants acted jointly and in concert and overt acts were done in furtherance of a conspiracy to deprive Plaintiff of her Federally protected civil rights; and that the purpose of the conspiracy was to deprive her of equal protection, equal privileges and immunities and to obstruct the course of justice, that the defendants intended to discriminate against the plaintiff, that the defendants acted under the color of state law and authority, and that acts done in furtherance of the conspiracy resulted in injury to plaintiff's person and property and prevented her from exercising right or privilege of United States citizen.

THEREFORE PLAINTIFF BELIEVES THAT DISCOVERY IS MANDATORY TO IDENTIFY THE CAUCASIAN SHERIFFS DEPUTIES WHO WERE PRESENT IN LAURENCE D RUBIN'S COURTROOM ON 6TH OCT. 1998 BECAUSE IT IS A SUBSTANTIAL PROOF OF A FACT –THAT IS NECESSARY AND MATERIAL TO THIS PROCEEDING.

Plaintiff ANGELA BERNHARDT served discovery on County Of Los Angeles defendants, see attached exhibit YY. If this discovery is answered and does NOT REVEAL the identities of the Caucasian Sheriffs then Plaintiff Angela Bernhardt must depose Laurence D Rubin who is knowledgeable of the identities of the Caucasian Sheriffs who were in his courtroom on 6th October, 1998. And if Laurence D Rubin does not wish to disclose the Caucasian Sheriffs identities in his

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Courtroom in that deposition, then Plaintiff needs A COURT ORDER TO IDENTIFY THE CAUCASIAN SHERIFS BY LOOKING AT PHOTOGRAPHS OF CAUCASIAN SHERIFFS AT COUNTY OF LOS ANGELES SHERIFF'S DEPARTMENT AS SHE CAN RECOGNIZE WHO KICKED HER TO THE GROUND AS HE HAS A VERY DISTINCT FACE.

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REGARDING 42 USC § 1983 AND ABSOLUTE IMMUNTITY FOR JUDICIAL ACTS

"The 42 USC §1983 statute, which came on the books as 1 of the Ku Klux Klan Act of April 20, 1871, 17 Stat. 13, provides that " EVERY PERSON" who under color of state law or custom " subjects, or causes to be subjected, any citizen to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. "

TO MOST, "EVERY PERSON" WOULD MEAN EVERY PERSON, NOT EVERY PERSON EXCEPT JUDGES." Pierson v Ray, 386 U.S. 547. 559

Regarding 42 USC § 1983 - in Pierson v Ray, 386 U.S. 547. 559 it states, "The congressional purpose seems to me to be clear. A condition of lawlessness existed in certain of the States, under which people were being denied their civil rights. CONGRESS INTENDED TO PROVIDE A REMEDY FOR THE WRONGS BEING PERPETRATED. AND ITS MEMBERS WERE NOT UNAWARE THAT CERTAIN MEMBERS OF THE JUDICIARY WERE IMPLICATED IN THE STATE OF AFFAIRS WHICH THE STATUTE WAS INTENDED TO RECTIFY. IT WAS OFTEN NOTED THAT " [I]MMUNITY IS GIVEN TO CRIME, and the records of

the public tribunals are searched in vain for any evidence of effective redress." Cong. Globe, 42d Cong., 1st Sess., 374.

Mr. Rainey of South Carolina noted that " [T]HE COURTS ARE IN MANY INSTANCES UNDER THE CONTROL OF THOSE WHO ARE WHOLLY INIMICAL TO THE IMPARTIAL ADMINISTRATION OF LAW AND EQUITY." Id., at 394. [386 U.S. 547, 560] Congressman Beatty of Ohio claimed that it was the duty of Congress to listen to the appeals of those who " by reason of popular sentiment or secret organizations or prejudiced juries or bribed judges, [CANNOT]OBTAIN THE RIGHTS AND PRIVILEGES DUE AN AMERICAN CITIZEN . . . ." Id., at 429. The members supporting the proposed measure were apprehensive that there had been a complete breakdown in the administration of justice in certain States and that laws nondiscriminatory on their face [I.E. CALIFORNIA GOVERNMENT CODE 910 ET SEQ] were being applied in a discriminatory manner, {TO DENY PLAINTIFF ANY CHANCE OF PREVAILING AND TO CIRCUMVENT DUE PROCESS OF LAW] that the newly won civil rights of the Negro were being ignored, and that the Constitution was being defied. It was against this background that the section [42 USC § 1983], was passed and it is against



this background that it should be interpreted. THE SECTION'S PURPOSE WAS TO PROVIDE REDRESS FOR THE DEPRIVATION OF CIVIL RIGHTS. IT WAS RECOGNIZED THAT CERTAIN MEMBERS OF THE JUDICIARY WERE INSTRUMENTS OF OPPRESSION AND WERE PARTIALLY RESPONSIBLE FOR THE WRONGS TO BE REMEDIED.

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The parade of cases coming to this Court shows that a similar condition now obtains in some of the States. SOME STATE COURTS HAVE BEEN INSTRUMENTS OF SUPPRESSION OF CIVIL RIGHTS. THE METHODS MAY HAVE CHANGED; THE MEANS MAY HAVE BECOME MORE SUBTLE; BUT THE WRONG TO BE REMEDIED STILL EXISTS

For 42 USC § 1985 The essential element of conspiracy claim is existence of agreement between 2 or more persons to commit an illegal act. Plaintiff believes that their was a conspiracy to deprive Plaintiff of a fair hearing, on October 6th, 1998 and that that hearing was set up beforehand for no due process and for police brutality. Under 42 USC § 1985 plaintiff need not show that such agreement to deprive Plaintiff of Civil rights and equal protections of the laws, through an unfair hearing with no due process of law was express, but a conspiracy may be implied from circumstances.

THE SHOWING OF A CONSPIRACY MUST OFTEN BE MET BY CIRCUMSTANTIAL EVIDENCE INASMUCH AS CONSPIRATORS RARELY FORMULATE THEIR PLANS IN WAYS SUSCEPTIBLE TO BE PROVED BY DIRECT EVIDENCE; PLEADING REQUIREMENTS UNDER § 1985 REQUIRE AT LEAST MINIMUM FACTUAL SUPPORT OF EXISTENCE OF CONSPIRACY. Hunt v Weatherbee (1986 DC Mass) 626 F Supp 1097, 39 BNA FEP Cas 1469 121 lrrm 2408, 39 cch epd 35927. Allegations that "defendants and other named conspirators "deprived plaintiff of [due process of law and abridged her privileges and immunities], and equal protection of the law was sufficient to survive motion to dismiss complaint where Plaintiff named one defendant. 42 USC § 1985 (3) provided that action could be brought against 'any one or more" of conspirators and where COURT CONCLUDED THAT PLAINTIFF WAS

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ENTITILED TO DISCOVERY TO ASCERTAIN IDENTITY OF ALLEGED BUT UNNAMED ([CAUCASIAN SHERIFFS ] CONSPIRATORS. Milner v National School of Health Technology (1976, ED Pa) F Supp 1389, 12, BNA FEP Case 1696 11, CCH EPD 10787

Plaintiff can show through specific facts that the defendants reached an understanding or

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agreement to violate plaintiff's federally created rights, by depriving her of a fair hearing with due process of law in County Of Los Angeles Santa Monica Courthouse, by placing Caucasian Sheriffs in that courtroom who brutalized the Plaintiff who the County Of Los Angeles, Laurence D Rubin, Terry January- Sherman Moten, Lee Baca, and Santa Monica College Police officer Ron Marable are now hiding!

PLAINTIFF THROUGH DISCOVERY WITH THE COURT'S ORDER WILL BE ABLE TO IDENTIFY THE CAUCASIAN SHERIFF WHO STARTED THE POLICE BRUTALITY ATTACK AGAINST HER, WHERE TWO OTHER CAUCASIAN SHERIFFS JOINED IN TO PUNCH HER ON THE FLOOR FOR TWO MINUTES WHILE SHE WAS ALREADY RESTRAINED. (2) Defendant Laurence D Rubin does not enjoy absolute judicial immunity for acts or omissions that do not fall into the category of judicial acts, and can be held liable under 42 USC 1983 & 42 USC 1985 (2)& (3) if any of his individual acts or omissions are not judicial acts.

In Forrester v. White, 484 U.S. 219 (1988); A state-court judge did not have absolute immunity from a damages suit under 1983 for his decisions to demote and dismiss a court employee. Pp. 223-230. and therefore Defendant Laurence D Rubin does not have absolute immunity from a damages suit under 42 USC §1983 for

his decisions to allow Caucasian Sheriffs into his courtroom, who caused police brutality to Plaintiff in his courtroom, and who Judge Laurence D Rubin is now hiding through his silence.. And It is the nature of the function performed - adjudication - rather than the identity [Forrester v White 484 U.S. 219, 2 (1988) ] of the actor who performed it - a judge - that determines whether absolute immunity attaches to the act. Pp. 225-229.

Administrative decisions, even though they may be essential to the very functioning of the courts, have not similarly been regarded as judicial acts. In Ex parte Virginia, 100 U.S. 339 (1880), for example, this Court declined to extend immunity to a county judge who had been charged in a criminal indictment with discriminating on the basis of race in selecting trial jurors for the county's courts. The Court reasoned: "Whether the act done by him was judicial or not is to be determined by its character, and not by the character of the agent.

Whether he was a county judge or not is of no importance

Laurence D Rubin knows the identities of the 1-3 Caucasian Sheriffs in his courtroom on October



6th, 1998, who caused physical injury to the plaintiff, and Laurence D Rubin was there when the first Caucasian Sheriff -who was present throughout the hearing -walked across the courtroom and went into an attack mode by his facial expression and body placement before he kicked plaintiff to the ground.

Therefore the non judicial act or omission by Laurence D Rubin is that he is concealing the identities of the 1-3 Caucasian Sheriffs who were in his courtroom and who caused police brutality to the Plaintiff, and who

kicked her to the ground, and then punched her softly around her rib cage while she was on the ground for two minutes, and stuck their fingernails into her right hand. The second non judicial act or omission by Laurence D Rubin is that IF IT IS TRUE that Terry January is African American (which Sheriff Sherman Moten and Sheriff Leroy Baca have told Plaintiff), and IF IT IS TRUE Terry January is the regular sheriff deputy bailiff who is stationed in Judge Laurence D Rubin's courtroom which is what Sheriff Sherman Moten told plaintiff on December 7th, 1998,and Sheriff Lee Baca through Exhibit P dated 5th Feb.1999 THEN Laurence D Rubin's act and ommision to concur that his usual Sheriff Baliff Terry January was in a confrontation with Plaintiff Angela Bernhardt when Terry January was not in any confrontation with plaintiff - is not only a suppression of evidence in concealing the identities of the Caucasian Sheriffs who caused police brutality on Plaintiff in his courtroom, but is also by his agreement contributing to this lie, and ratifying the entire policy of these secret Caucasian Sheriffs who have a propensity for violence who are allowed in his courtroom.

County Of Los Angeles Sheriff's department's original story was that African American Sheriff Terry January and African American defendant Santa Monica College police officer Ron Marable were in a confrontation with Plaintiff Angela Bernhardt, to stop Plaintiff Angela Bernhardt from reaching Judge Laurence D Rubin which is written on Exhibit P of the First Amended Complaint. Judge Laurence D Rubin knows this is an untrue story as he would not have said he was sorry on October 6th, 1998, through the African American Sheriff who released plaintiff from the holding cell, also written in First Amended Complaint page 63, line 20 and 21, if he had ever felt threatened by Plaintiff that day. Also now there

is a different story from the Sheriff's department see Exhibit PP filed with this Court 24th September, 1999. Laurence D Rubin is ratifying the abridged hearing he offered Plaintiff, and has become part of THE CODE OF SILENCE. And Judge Laurence D Rubin has no jurisdiction as a Judge to conceal the identities of the 1-3 Caucasian Sheriffs And Laurence D Rubin's concealment of the



Caucasian Sheriffs deputies who were in his courtroom and by his ratifying the switch of identities to African American sheriff Terry January – these non judicial acts - when fused with Laurence D Rubin's other judicial acts on October 6th, 1998, contaminates his other judicial acts – but some were contaminated as soon as he said no cross –examination allowed at the beginning of the hearing. Plaintiff does not believe that ordering absolutely no cross -examination allowed in a hearing is a true judicial act because it closes down the adversary system and is guaranteed under the 6th Amendment, and 14th Amendment for due process of law. Thus the fusion of the non judicial act of concealing the identities of the Caucasian Sheriff's deputies some who were present for the entire hearing, who caused police brutality to Plaintiff, of whose identities Laurence D Rubin does know, and Judge Laurence D Rubin's silent acceptance that Terry January was in a confrontation with Plaintiff when he was there so he knows that is not so, and the false judicial act of no cross examination allowed, no witness evidence allowed, virtually no evidence allowed, contaminated and made the WHOLE PROCESS a non judicial act, under the color of law, and therefore Plaintiff believes that Laurence D Rubin is not entitled to absolute judicial immunity in this case.

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CONCLUSION For the foregoing reasons, Plaintiff respectfully requests that this Court does not dismiss plaintiff's action.

Respectfully submitted

Angela Bernhardt 4th October 1999.

**[NOTE: Location Of Plaintiff Angela Bernhardt's Opposition To County Of Los Angeles Motion To dismiss in the District Court record -is at Docket 52 within the same blue back as Plaintiff's Early Opposition to Santa Monica College et al defendants Motion to Dismiss Plaintiff's Complaint under FRCP 12 (b)**

**(Plaintiff Angela Bernhardt's Oppostion To County Of Los Angeles Motion To Dismiss is also Located at 9th Circuit Excerpt From Record -Volume 3 - page 113 through 129)**

## APPENDIX F

FILED 4TH OCT 1999 –PLAINTIFF ANGELA BERNHARDT'S OPPOSITION TO SANTA MONICA COLLEGE DEFENDANTS MOTION TO DISMISS FRCP.12 (b) A MORE THOROUGH VERSION SHORTLY



THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
Case NO CV -99–2598 - JSL

DATE: OCTOBER 4TH 1999 TIME: 1 P.M.
PLACE: COURTROOM #4 HON J SPENCER LETTS

**Angela Bernhardt Plaintiff** vs )
**SANTA MONICA COLLEGE** , a public entity, **SANTA MONICA** )
**COLLEGE COMMUNITY DISTRICT**, a public entity. **SANTA** )
**MONICA COLLEGE BOARD OF TRUSTEES**, a public entity. )
**SANTA MONICA COLLEGE POLICE DEPT.**, a public entity. )
**R.L.JONES**, in his individual and official capacity. **RON** )
**MARABLE** in his individual and official capacity. )
**EILEEN MILLER**, in her individual and official capacity. )
**PIEDAD ROBERTSON**, in her individual and official capacity. )
**ROBERT SAMMIS**, in his individual and official capacity. )
**JOANNE FIELDER** in her individual and official )
capacity. **BRENDA SIMMONS**, in her individual and )
official capacity. **HERB RONEY**, in his individual and official )
capacity. **DOROTHY EHRHART MORRISON**, in her individual )
and official capacity. **NANCY CATTELL**, in her individual and )
official capacity. **CAROL L CURRY**, in her individual and )
official capacity. **ILLONA JO KATZ**, in her individual and )
official capacity. **PATRICK NICHELSON**, in his individual and )
official capacity **ANNETTE SHAMEY**, in her individual and )
official capacity, **STATE OF CALIFORNIA**, a public entity. )
**COUNTY OF LOS ANGELES**, a public entity.**COUNTY OF** )
**LOS ANGELES SHERIFFS DEPT.**,a public entity, **COUNTY** )
**OF LOS ANGELES SANTA MONICA MUNICIPAL COURT**, )
a public entity. **LAURENCE D. RUBIN**, in his individual & )
official capacity. **1-10 CAUCASIAN MALE SHERIFF DEPUTY** )
**DOES, OF JUDGE LAURENCE D. RUBIN'S COURT ROOM R** )
**& COUNTY OF LOS ANGELES SHERIFF'S DEPT** in their )
individual & official capacities, **LA COUNTY SHERIFF LEE** )
**BACA** in his individual & official capacity. **SHERIFF** )
**SHERMAN MOTEN, SHERIFF** )
**TERRY JANUARY,** in their individual & official capacities. )
**OFFUNE OBIANEWE** in her individual capacity, )
**SHERIFF DEPUTY DOES 1—50** in individual and official )
capacity,and **DOES 1** through **100.** )
**Defendants**

**APPENDIX F**

**OPPOSITION TO SANTA MONICA COLLEGE DEFENDANTS MOTION TO DISMISS**



COMES NOW **ANGELA BERNHARDT** and submits the enclosed opposition to defendants motion to dismiss Plaintiff's complaint under Federal Rule 12 (b).

This opposition to defendants **SANTA MONICA COLLEGE ET AL'S MOTION TO DISMISS** is made on the following grounds:

**The most important misrepresentation and distortion of plaintiff's complaint by defendants Santa Monica College et al,** occurs on page 4 line 21 of their motion to dismiss where Defendants attorney Mary L Dowell **distorts plaintiffs first amended complaint by stating,**

"She [Plaintiff Angela Bernhardt] was advised that the incident was probably too old to investigate **ADEQUATELY,**

**AND LINE 22-23 PAGE 4, OF THE MOTION TO DISMISS**

**BUT THE OFFICER SHE SPOKE TO [SANTA MONICA COLLEGE POLICE OFFICER RON MARABLE] DID INTERVIEW HER AND DID INTERVIEW THE ACCUSED INSTRUCTOR**

**PLAINTIFF HAS NEVER STATED EITHER "ADEQUATELY" OR THAT MARABLE INTERVIEWED THE ACCUSED INSTRUCTOR-ANYWHERE, AND THIS IS A FABRICATION ON THE DEFENDANTS PART TO CONFUSE THAT FRAUD DID TAKE PLACE BECAUSE OF DEFENDANT SANTA MONICA POLICE OFFICER RON MARABLE 'S ACTS AND OMISSIONS.**

## APPENDIX F

## OPPOSITION TO SANTA MONICA COLLEGE DEFENDANTS MOTION TO DISMISS

1. Plaintiff has never stated this anywhere - **see First Amended Complaint, page 20, line 16- 19,** where Plaintiff states,

**"But Police Officer Marable refused to take a written report and told Plaintiff that defendant Jones's sexual assault on her was too old to report, which wasn't true as Plaintiff was reporting the sexual assault to defendant Marable within the three year statute of limitations for fraud and mistake under California civil code of procedure 338 (4)."**

**PAGE 3**

**The offending words ar "PROBABLY" AND "ADEQUATELY" distort Plaintiff's complaint against Ron Marable and Santa Monica college for the purpose of disguising the FRAUD that took place because Ron Marable told plaintiff that her restrained sexual assault complaint against defendant Instructor Larry Jones was too old to report**

**WHICH IS THE EQUIVALENT OF SAYING THAT THE STATUTE OF LIMITATIONS HAD RUN OUT TO REPORT THE RESTRAINED SEXUAL ASSAULT IN NOVEMBER 1996** and which the statute of limitations had not run out to report the restrained sexual assault in November 1996 because of California Code Of Civil Procedure CCP 338 (4) which is a three year statute to report an incident on the basis of mistake or fraud.

**In Stitt vs Williams 919 F 2d 516 9th Circuit 1990**, I quote, ".The district court's rulings ...properly applied California's three year statute of limitations for fraud actions. See Admiralty

Fund v. Hugh Johnson & Co., 677 F.2d 1301, 1308-09 (9th Cir. 1982); Cal.Civ.Proc.Code 338 (West Supp. 1990). Second, the court correctly applied federal law to determine when the statute started to run. Under federal law, the statutory period "commences when the plaintiff discovered or could have discovered the fraud with the exercise of reasonable diligence . . . ." Admiralty Fund, 677 F.2d at 1309. See also Volk v. D.A. Davidson & Co., 816 F.2d 1406, 1417 (9th Cir. 1987). We have held that the question of notice of fraud is for the trier of fact. Admiralty Fund, 677 F.2d at 1309. Therefore, "the party seeking summary disposition has an extremely difficult burden to show that there exists no issue of material fact regarding notice." Id. at 1309-10. **"And as far as equitable tolling and equitable estoppel again in Stitt vs Williams**

**"The case law is confused and contradictory, BUT THE BETTER REASONING STATES THAT EQUITABLE TOLLING APPLIES WHEN THE PLAINTIFF IS UNAWARE OF HIS CAUSE OF ACTION, WHILE EQUITABLE ESTOPPEL APPLIES WHEN A PLAINTIFF WHO KNOWS OF HIS CAUSE OF ACTION REASONABLY RELIES ON THE DEFENDANT'S STATEMENTS OR CONDUCT IN FAILING TO BRING SUIT.** See Smith v. Mark Twain Nat'l Bank, 805 F.2d 278, 294 (8th Cir. 1986); Cerbone v. International Ladies' Garment Workers' Union, 768 F.2d 45, 49-50 (2d Cir. 1985); Atkins v. Union Pac. RR, 685 F.2d

**PAGE 4**

[CITATIONS OMITTED]

## APPENDIX F

## OPPOSITION TO SANTA MONICA COLLEGE DEFENDANTS MOTION TO DISMISS

2. Plaintiff had plead facts under a cognizable legal theory, Plaintiff was deprived of her civil rights privileges and immunities on several different occasions at Santa Monica College without due process of law and was discriminated against because she reported an Instructor's sexual assault to their police officer which they covered up and ratified by their acts. .

3. It is not true that Plaintiff's claims for relief are barred by the applicable statute of limitations, as the statute of limitations for fraud and mistake is three years and the defendants cannot raise the statute of limitations as a defense because of equitable estoppel and equitable tolling and because of their FRAUD in covering up that Plaintiff reported the sexual assault to marable n Nov 1996.

All Claims for relief are not barred by the applicable statute of limitations. The statute of limitations for fraud, California Code Of Civil Procedure CCP 338 (4) is three years. The discovery of Santa Monica College's et als fraud was 17th March 1998, Please see Exhibit G of the exhibits for First amended complaint, and Plaintiff filed her claim in this Court 15th March, 1999, - within one year of discovery of the fraud.

**CONCLUSION For the foregoing reasons, Plaintiff respectfully requests that this Court does not dismiss plaintiff's action.**
**Respectfully submitted with a much fuller version to follow shortly!**

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Angela Bernhardt 4th Oct 1999 - {Location Of Opposition To Santa Monica College Motion To Dismiss District Court Docket 52] 9th USCA Volume 3 pages 130-133]

**APPENDIX F**

**DATED 27TH DEC 2000 EXCERPT FROM COUNTY OF LOS ANGELES ET AL'S BRIEF FOR USCA 00-55596 & 55930**

**Page 1 FOOTNOTE 1** [1] Appellant apparently attempted to pass the bailiff to approach Judge Laurence D Rubin as he left the bench. When she lunged at the Judge, the bailiff restrained her.

**Page 1, 2 FOOTNOTE 2** [2] Defendants Sheriff Sherman Moten and Sheriff Terry January were never personally served and therefore never appeared in the action. As the District Court properly noted in its Order Of Oct 8th 1999, they were not moving parties in the County defendant's motion to dismiss filed on August 25th 1999 Appellant's contention that they were moving parties is thus without merit

**[Note: Please take judicial notice of County of Los Angeles Proposed Order For their Motion To Dismiss in App F page 130, 131 where Sheriff Terry January and Sherman Moten are included in County Of Los Angeles Proposed Order For Their Motion to Dismiss which created ambiguity to a pro per litigant for purposes of concealing a defect in the service of the summons and complaint and where in May 1999 petitioner was informed by Mr. Geller at the status conference that all County Of Los Angeles respondents had accepted service by US mail. ]**

**Page 20 FOOTNOTE 5** [5] The Motion [To Dismiss] was filed on August 25th 1999, and set for Oct 24th 1999, the first available court date. Appellant had nearly four weeks to prepare her response, two full weeks more than required by the Local Rules. [ Note: Local Rule 7.6 For District Court Central District Of California are in App Cr page 75 ]

**APPENDIX F**

Dated: August 8th 2000 **Excerpt From Related Case:**

**County Of Los Angeles Brief For United States Court Of Appeals For 9th Circuit USCA**

**Case 00-55524 USDC -Case CV-99-10121 – JSL (Mc)**

**Page 3 Footnote 4.**[4] Appellant's case in the matter of Bernhardt v. Santa Monica College et al Case No. CV –99-2898-JSL ~~(RNBx)~~ was dismissed on October 8th 1999 (ER 17, pp 8-9) **The Complaint alleged that Appellant's civil rights had been violated in an incident at the Santa Monica Municipal Court, Small Claims Division wherein Appellant had to be restrained by a courtroom bailiff after she lunged at Judge Laurence D Rubin.**

**Note: Decision still pending in 9th Circuit USCA as of January 15th 2002.**

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**DATED 27TH DEC 2000EXCERPT FROM COUNTY OF LOS ANGELES ET AL'S BRIEF FOR USCA 00-55596 & 55930**

**Page 20 FOOTNOTE 6** [6] The "Early Opposition " does not address the County's Motion to Dismiss, but rather opposes the Santa Monica College Defendant's Motion. **The County's Motion To Dismiss was never opposed.**

**[Note: Please take judicial notice of Petitioner's Opposition To County Of Los Angeles Motion To Dismiss which is in the record, for which petitioner has an original date stamp from the district court of Oct 4th 1999 for, and which is in the same blue back as the Early Opposition to Santa Monica college et als Motion To Dismiss and is reproduced in this Appendix F From 144 –169 ]**